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# **Fiscal Council**

**Joe Negron, Chair  
Fred Brummer, Vice Chair**

**Tuesday, April 4, 2006  
3:15 p.m. – 4:00 p.m.  
212 Knott**

# **Council Meeting Notice**

## **HOUSE OF REPRESENTATIVES**

**Speaker Allan G. Bense**

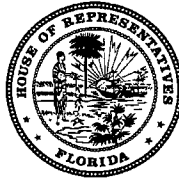
### **Fiscal Council**

**Start Date and Time:** Tuesday, April 04, 2006 03:15 pm  
**End Date and Time:** Tuesday, April 04, 2006 04:00 pm  
**Location:** 212 Knott Building  
**Duration:** 0.75 hrs

#### **Consideration of the following bill(s):**

HB 25 Violent Felony Offenders by Negron  
HB 323 CS Reemployment After Retirement by Patterson  
HB 561 CS Offenses Involving Insurance by Rivera  
HB 581 Public Benefits by Cretul  
HB 691 CS Tax on Sales, Use, and Other Transactions by Negron  
HB 1489 (IF RECEIVED) -- State's Aerospace Industry by Waters

**NOTICE FINALIZED on 03/31/2006 16:26 by SLB**



# **Florida House of Representatives**

Fiscal Council

**Allan Bense**  
Speaker

**Joe Negron**  
Chair

## **AGENDA**

**Tuesday, April 4, 2006**

**3:15 p.m. – 4:00 p.m.**

**212 Knott Building**

### **I. Meeting Call to Order**

### **II. Opening Remarks by Chair**

#### **Consideration of the following bill(s):**

HB 25 Violent Felony Offenders by Negron

HB 323 CS Reemployment After Retirement by Patterson

HB 561 CS Offenses Involving Insurance by Rivera

HB 581 Public Benefits by Cretul

HB 691 CS Tax on Sales, Use, and Other Transactions by Negron

HB 1489 (IF RECEIVED) -- State's Aerospace Industry by Waters

### **III. Closing Remarks and Adjournment**





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 25 Violent Felony Offenders

**SPONSOR(S):** Negron and others

**TIED BILLS:** IDEN./SIM. BILLS: SB 2622

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Appropriations Committee	6 Y, 0 N	DeBeaugrine	DeBeaugrine
2) Criminal Justice Committee	5 Y, 0 N	Cunningham	Kramer
3) Fiscal Council		DeBeaugrine	Kelly <i>ck</i>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

This bill creates a class of persons who violate the conditions of their probation or community control, known as a "violent felony offender of special concern." "Violent felony offenders of special concern" are persons who commit violent crimes, and whose violation of probation or community control is not for a failure to pay money.

A "violent felony offender of special concern" must be held without bail until the violation is resolved.

The Criminal Punishment Code provides a mathematical formula that determines the minimum sentence that a criminal offender must serve. Under current law, a probation violator is assessed an additional 12 points for a felony violation, or 6 points for any other violation. This bill increases those points for violent felony offenders of special concern by 50%.

On March 21, 2006 the Criminal Justice Estimating Conference determined that the bill would increase the inmate population by 1,336 inmates by the end of FY 2010-11. Please see section II, the fiscal and economic impact section of this analysis, for further information.

## **FULL ANALYSIS**

### **I. SUBSTANTIVE ANALYSIS**

#### **A. HOUSE PRINCIPLES ANALYSIS:**

Personal responsibility -- This bill encourages responsible behavior by persons subject to probation or community control by increasing the penalties for violation of probation or community control.

#### **B. EFFECT OF PROPOSED CHANGES:**

Probation is a form of community supervision requiring specified contacts with parole and probation officers, standard terms and conditions in statute, and any specific terms and conditions required by the sentencing court.<sup>1</sup> Community Control is a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Community Control is an individualized program in which the freedom of an offender is restricted within the community, home, or noninstitutional residential placement and specific sanctions are imposed and enforced.<sup>2</sup>

The statutory terms and conditions required of persons on probation or community control, as provided by s. 948.03, F.S., are that the offender must:

- Report to the probation and parole supervisors as directed.
- Permit such supervisors to visit him or her at his or her home or elsewhere.
- Work faithfully at suitable employment insofar as may be possible.
- Remain within a specified place.
- Make reparation or restitution.
- Make payment of the debt due and owing to a county or municipal detention facility for medical care, treatment, hospitalization, or transportation received by the felony probationer while in that detention facility.
- Support his or her legal dependents to the best of his or her ability.
- Pay any monies owed to the crime victims compensation trust fund.
- Pay the application fee and costs of the public defender.
- Not associate with persons engaged in criminal activities.
- Submit to random testing as directed by the correctional probation officer or the professional staff of the treatment center where he or she is receiving treatment to determine the presence or use of alcohol or controlled substances.
- Not possess, carry, or own any firearm unless authorized by the court and consented to by the probation officer.
- Not use intoxicants to excess or possess any drugs or narcotics unless prescribed by a physician.
- Not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.
- Submit to the drawing of blood or other biological specimens, and reimburse the appropriate agency for the costs of drawing and transmitting the blood or other biological specimens to the Department of Law Enforcement.

Section 948.06, F.S., provides procedures regarding violation of the terms and conditions required of a person on probation or community control. Upon violation, the offender is arrested and brought before the sentencing court. At the first hearing on the violation, the offender is advised of the charge. If the

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<sup>1</sup> Section 948.001(5), F.S.

<sup>2</sup> Section 948.001(2), F.S.

offender admits the charge, the court may immediately revoke, modify, or continue the probation or community control or place the probationer into a community control program.

If the offender denies having violated the terms of the probation or community control, the court may commit him or her or release him or her with or without bail to await further hearing, or it may dismiss the charge of probation or community control violation. Unless dismissed, the court must conduct a hearing and determine whether the offender has violated. If the court finds that the offender has violated, the court may immediately revoke, modify, or continue the probation or community control or place the probationer into a community control program.

If probation or community control is revoked, the court must adjudicate the probationer or offender guilty of the offense charged and proven or admitted, unless he or she has previously been adjudicated guilty. The court may then impose any sentence that it might have originally imposed before placing the probationer on probation or the offender into community control.

The Criminal Punishment Code, ss. 921.002 through 921.0027, F.S., is applicable to all offenses committed on or after October 1, 1998. The code provides a mathematical formula that determines the minimum sentence that a court may impose upon an offender. The minimum sentence is calculated based upon the total number of points assessed against the offender. If the total points exceed 44, the court must subtract 28 points and multiply by 75%. The resulting number is the minimum number of months in state prison that the offender must serve. However, the court may find that one of the mitigating circumstances at s. 921.0026, F.S., warrants a downward departure. Where a downward departure is granted, the court may sentence the offender to less than the minimum sentence.

If an offender is resentenced after being found guilty of violating the terms of his or her probation or community control, the total points are re-calculated, adding 12 points for a violation resulting from committing a new felony offense, or 6 points for any violation other than a new felony offense. The effect of the additional points may compel the sentencing court to impose a new state prison sentence, unless the court finds grounds for a downward departure.

### **Effect of Bill**

This bill creates the "Anti-Murder Act".

This bill creates s. 903.0351, F.S., which provides that a violent felony offender of special concern arrested for violation of probation or community control may not be granted bail prior to the resolution of the probation or community control violation hearing unless the violation is based solely on a failure to pay costs, fines, or restitution payments. A corresponding change is made to s. 948.06(4), F.S., regarding violent felony offenders of special concern who are captured in a county other than the sentencing county, denying bail to such offenders unless the violation is for a failure to pay costs, fines, or restitution payments.

This bill amends s. 948.06, F.S., regarding violation of probation, creating a new subsection (8) regarding violent felony offenders of special concern. The bill defines "violent felony offenders of special concern" as a person who is:

- On probation or community control related to the commission of a qualifying offense committed on or after July 1, 2006,
- On probation or community control for any offense committed on or after July 1, 2006, and who then commits a qualifying offense, or
- On probation or community control for any offense committed on or after July 1, 2006, and is found to have violated that probation or community control by committing a qualifying offense.

- On probation or community control and has previously been found by a court to be a habitual violent felony offender pursuant to s. 775.084(1)(b), F.S., and has committed a qualifying offense on or after July 1, 2006.
- On probation or community control and has previously been found by a court to be a three-time violent felony offender pursuant to s. 775.084(1)(c), F.S., and has committed a qualifying offense on or after July 1, 2006.
- Probation or community control and has previously been found by a court to be a sexual predator pursuant to s. 775.21, F.S., and has committed a qualifying offense on or after July 1, 2006.

This bill provides that commission of any listed offense on or after July 1, 2006 is a "qualifying offense." The listed offenses are:

- Kidnapping or attempted kidnapping under s. 787.01, F.S., false imprisonment of a child under the age of 13 under s. 787.02(3), F.S., or luring or enticing a child under s. 787.025, F.S..
- Murder or attempted murder under s. 782.04, F.S., attempted felony murder under s. 782.051, F.S., or manslaughter under s. 782.07, F.S.
- Aggravated battery or attempted aggravated battery under s. 784.045, F.S.
- Sexual battery or attempted sexual battery under s. 794.011(2), (3), or (4), F.S.
- Lewd or lascivious battery or attempted lewd or lascivious batter under s. 800.04, F.S., or lewd or lascivious molestation under s. 800.04(5)(b), F.S.
- Robbery or attempted robbery under s. 812.13, F.S., carjacking under s. 812.133, F.S., or home invasion robbery under s. 812.135, F.S.
- Lewd or lascivious offense upon or in the presence of an elderly or disabled person or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person under s. 825.1025, F.S.
- Sexual performance of a child or attempted sexual performance of a child under s. 827.071, F.S.
- Computer pornography under s. 847.0135(2) or (3), F.S., transmission of child pornography under s. 847.0137, F.S., or selling or buying of minors under s. 847.0145, F.S.
- Poisoning food or water under s. 859.01, F.S.
- Abuse of a dead human body under s. 872.06, F.S.
- Arson or attempted arson under s. 806.01(1), F.S.
- Aggravated assault under s. 784.021, F.S.
- Aggravated stalking under s. 784.048(3), (4), (5), or (7), F.S.
- Aircraft piracy under s. 860.16, F.S.
- Unlawful throwing, placing, or discharging of a destructive device or bomb under s. 790.161(2), (3), or (4), F.S.
- Treason under s. 876.32, F.S.
- An offense in another jurisdiction that would meet the definitions of these offenses if committed in Florida.

This bill provides that, as to any person who is a violent felony offender of special concern, who violates any condition of probation other than a failure to pay costs, fines, or restitution:

- No bail is allowed.
- The court may not dismiss the violation unless the court conducts a recorded hearing at which the state and the offender are represented.

If the court finds that a violent felony offender of special concern has violated any nonmonetary terms of probation or community control, the court must decide whether to revoke the probation or community control. If the court determines by a preponderance of the evidence that a violent felony offender of special concern poses a danger to the community, the court shall revoke probation or community control and shall sentence the offender up to the statutory maximum under the Criminal Sentencing

Code, s. 921.0024, F.S. The court is allowed to consider a number of factors in determining the danger to the community posed by the offender's release. The court must enter a written order in support of its finding in determining whether the offender poses a danger to the community.

This bill amends s. 921.0024, F.S., to modify the formula for determining the Total Sentence Points under the Criminal Punishment Code. A violent felony offender of special concern violator is assessed 9 points for a violation that does not involve a new felony conviction (as opposed to the 6 points assessed under current law), and is assessed 18 points for a violation that involves a new felony conviction (as opposed to the 12 points assessed under current law). These additional points will have the effect of lengthening the minimum sentence required by the Criminal Punishment Code.

**C. SECTION DIRECTORY:**

**Section 1.** Names the act.

**Section 2.** Creates s. 903.0351, F.S., denying bail for violent felony offenders of special concern.

**Section 3.** Amends s. 948.06, F.S., defining violent felony offender of special concern and requiring a violation of probation hearing.

**Section 4.** Amends s. 921.0024, F.S., to increase points for community sanction violations.

**Sections 5, 6 and 7.** Republishes sections of law that may be affected by the changes made in the bill.

**Section 8.** Provides an effective date of July 1, 2006.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

None.

**2. Expenditures:**

On March 21, 2006 the Criminal Justice Estimating Conference determined that the bill would result in 32 additional inmates for FY 2006-07, increasing to 251 additional inmates by the end of FY 2007-08. The 32 additional inmates would result in additional costs of \$305,184 for operations. Construction costs are estimated by the conference at \$40,273 per bed which would result in construction costs of \$10.1 million to cover the additional inmates expected to be incarcerated in FY 2006-07 and FY 2007-08.

The current bed construction phase-in funded in the House proposed General Appropriation Act provides sufficient additional inmates expected to result from passage of this bill through the three year planning cycle that ends June 30, 2009.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

None.

**2. Expenditures:**

Indeterminate. The bill requires a violent felony offender of special concern to be detained without bail pending the final hearing on the violation. As such, the violator will be held in a county jail at

county expense. The impact could be significant, but it should be noted that offenders who meet the definition of a violent felony offender of special concern are more serious offenders who may not be as likely to be granted bail under existing law.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

The bill could have a significant fiscal impact on counties but would appear to be exempt from the provisions of Article VII, Section 18 (a) of the state constitution because it amends a criminal law.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

1                   A bill to be entitled

2       An act relating to violent felony offenders; providing a  
3       short title; creating s. 903.0351, F.S.; prohibiting bail  
4       or other pretrial release for specified violent felony  
5       offenders of special concern without a hearing; amending  
6       s. 948.06, F.S.; providing definitions; providing that  
7       certain alleged violations of probation or community  
8       control by violent felony offenders of special concern  
9       require hearings and require the alleged offenders to  
10      remain in custody pending hearing; providing requirements  
11      for such hearings; amending s. 921.0024, F.S.; revising  
12      Criminal Punishment Code worksheet computations to provide  
13      additional community sanction violation points for certain  
14      community sanction violations committed by violent felony  
15      offenders of special concern; reenacting ss.  
16      948.012(2)(b), 948.10(9), and 958.14, F.S., relating to  
17      split sentence of probation or community control and  
18      imprisonment, community control programs, and violation of  
19      probation or community control, respectively, to  
20      incorporate the amendment to s. 948.06, F.S., in  
21      references thereto; providing an effective date.

22  
23   Be It Enacted by the Legislature of the State of Florida:

24  
25       Section 1.   This act may be cited as the "Anti-Murder Act."

26       Section 2.   Section 903.0351, Florida Statutes, is created  
27   to read:

28        903.0351 Violent felony offenders of special concern;  
29        pretrial release hearing required.--A violent felony offender of  
30        special concern, as defined in s. 948.06, who has been arrested  
31        for an alleged violation of probation or community control shall  
32        not be granted bail or any other form of pretrial release prior  
33        to the resolution of the probation or community control  
34        violation hearing, unless the violation charge or arrest is  
35        based solely on failure to pay costs, fines, or restitution  
36        payments.

37        Section 3. Subsection (4) of section 948.06, Florida  
38        Statutes, is amended, and subsection (8) is added to that  
39        section, to read:

40        948.06 Violation of probation or community control;  
41        revocation; modification; continuance; failure to pay  
42        restitution or cost of supervision.--

43        (4) Notwithstanding any other provision of this section, a  
44        probationer or an offender in community control who is arrested  
45        for violating his or her probation or community control in a  
46        material respect may be taken before the court in the county or  
47        circuit in which the probationer or offender was arrested. That  
48        court shall advise him or her of such charge of a violation and,  
49        if such charge is admitted, shall cause him or her to be brought  
50        before the court which granted the probation or community  
51        control. If such violation is not admitted by the probationer or  
52        offender, the court may commit him or her or release him or her  
53        with or without bail to await further hearing. However, if the  
54        probationer or offender is under supervision for any criminal  
55        offense proscribed in chapter 794, s. 800.04(4), (5), (6), s.



56 827.071, or s. 847.0145, or is a registered sexual predator or a  
57 registered sexual offender, or is under supervision for a  
58 criminal offense for which he or she would meet the registration  
59 criteria in s. 775.21, s. 943.0435, or s. 944.607 but for the  
60 effective date of those sections, the court must make a finding  
61 that the probationer or offender is not a danger to the public  
62 prior to release with or without bail. In determining the danger  
63 posed by the offender's or probationer's release, the court may  
64 consider the nature and circumstances of the violation and any  
65 new offenses charged; the offender's or probationer's past and  
66 present conduct, including convictions of crimes; any record of  
67 arrests without conviction for crimes involving violence or  
68 sexual crimes; any other evidence of allegations of unlawful  
69 sexual conduct or the use of violence by the offender or  
70 probationer; the offender's or probationer's family ties, length  
71 of residence in the community, employment history, and mental  
72 condition; his or her history and conduct during the probation  
73 or community control supervision from which the violation arises  
74 and any other previous supervisions, including disciplinary  
75 records of previous incarcerations; the likelihood that the  
76 offender or probationer will engage again in a criminal course  
77 of conduct; the weight of the evidence against the offender or  
78 probationer; and any other facts the court considers relevant.  
79 The court, as soon as is practicable, shall give the probationer  
80 or offender an opportunity to be fully heard on his or her  
81 behalf in person or by counsel. After such hearing, the court  
82 shall make findings of fact and forward the findings to the  
83 court which granted the probation or community control and to

84 the probationer or offender or his or her attorney. The findings  
85 of fact by the hearing court are binding on the court which  
86 granted the probation or community control. Upon the probationer  
87 or offender being brought before it, the court which granted the  
88 probation or community control may revoke, modify, or continue  
89 the probation or community control or may place the probationer  
90 into community control as provided in this section. However, if  
91 any violation other than a failure to pay costs, fines, or  
92 restitution payments is alleged to have been committed by a  
93 violent felony offender of special concern, as defined in  
94 subsection (8), the probationer or offender shall not be  
95 released and shall not be admitted to bail, but shall be brought  
96 before the court that granted the probation or community  
97 control.

98 (8)(a) In addition to complying with the provisions of  
99 subsections (1)-(7), a probationer or offender in community  
100 control who is a violent felony offender of special concern  
101 shall comply with this subsection. The provisions of this  
102 subsection shall control over any conflicting provisions in  
103 subsections (1)-(7).

104 (b) For purposes of this subsection and ss. 903.0351 and  
105 921.0024, the term "violent felony offender of special concern"  
106 means a person who is on:

107 1. Probation or community control related to the  
108 commission of a qualifying offense committed on or after July 1,  
109 2006;

110 2. Probation or community control for any offense  
111 committed on or after July 1, 2006, and has previously been

112 convicted of or had adjudication withheld for a qualifying  
113 offense;

114 3. Probation or community control for any offense  
115 committed on or after July 1, 2006, and is found to have  
116 violated that probation or community control by committing a  
117 qualifying offense;

118 4. Probation or community control and has previously been  
119 found by a court to be a habitual violent felony offender as  
120 defined in s. 775.084(1)(b) and has committed a qualifying  
121 offense on or after July 1, 2006;

122 5. Probation or community control and has previously been  
123 found by a court to be a three-time violent felony offender as  
124 defined in s. 775.084(1)(c) and has committed a qualifying  
125 offense on or after July 1, 2006; or

126 6. Probation or community control and has previously been  
127 found by a court to be a sexual predator under s. 775.21 and has  
128 committed a qualifying offense on or after July 1, 2006.

129 (c) For purposes of this section, the term "qualifying  
130 offense" means any of the following:

131 1. Kidnapping or attempted kidnapping under s. 787.01,  
132 false imprisonment of a child under the age of 13 under s.  
133 787.02(3), or luring or enticing a child under s. 787.025.

134 2. Murder or attempted murder under s. 782.04, attempted  
135 felony murder under s. 782.051, or manslaughter under s. 782.07.

136 3. Aggravated battery or attempted aggravated battery  
137 under s. 784.045.

138 4. Sexual battery or attempted sexual battery under s.  
139 794.011(2), (3), or (4).

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- 140        5. Lewd or lascivious battery or attempted lewd or  
141        lascivious battery under s. 800.04(4) or lewd or lascivious  
142        molestation under s. 800.04(5)(b).
- 143        6. Robbery or attempted robbery under s. 812.13,  
144        carjacking under s. 812.133, or home invasion robbery under s.  
145        812.135.
- 146        7. Lewd or lascivious offense upon or in the presence of  
147        an elderly or disabled person or attempted lewd or lascivious  
148        offense upon or in the presence of an elderly or disabled person  
149        under s. 825.1025.
- 150        8. Sexual performance by a child or attempted sexual  
151        performance by a child under s. 827.071.
- 152        9. Computer pornography under s. 847.0135(2) or (3),  
153        transmission of child pornography under s. 847.0137, or selling  
154        or buying of minors under s. 847.0145.
- 155        10. Poisoning food or water under s. 859.01.
- 156        11. Abuse of a dead human body under s. 872.06.
- 157        12. Any burglary offense or attempted burglary offense  
158        that is either a first or second degree felony under s.  
159        810.02(2) or (3).
- 160        13. Arson or attempted arson under s. 806.01(1).
- 161        14. Aggravated assault under s. 784.021.
- 162        15. Aggravated stalking under s. 784.048(3), (4), (5), or  
163        (7).
- 164        16. Aircraft piracy under s. 860.16.
- 165        17. Unlawful throwing, placing, or discharging of a  
166        destructive device or bomb under s. 790.161(2), (3), or (4).
- 167        18. Treason under s. 876.32.

19. Any offense committed in another jurisdiction that would be an offense listed in this paragraph if that offense had been committed in this state.

(d) In the case of an alleged violation of probation or community control by a violent felony offender of special concern, other than a failure to pay costs, fines, or restitution, the offender shall remain in custody pending the resolution of the probation or community control violation. The court shall not dismiss the probation or community control violation warrant pending against a violent felony offender of special concern without holding a recorded violation of probation hearing at which both the state and the offender are represented.

(e) If the court, after conducting the hearing required by paragraph (d), determines that a violent felony offender of special concern has committed a violation of probation or community control other than a failure to pay costs, fines, or restitution, the court shall decide whether to revoke the probation or community control.

1. If the court determines, by a preponderance of the evidence, that a violent felony offender of special concern poses a danger to community, the court shall revoke probation or community control and shall sentence the offender under s. 921.0024 up to the statutory maximum.

2. In determining the danger to the community posed by the offender's release, the court may consider:

a. The nature and circumstances of the violation and any new offenses charged.

196        b. The offender's past and present conduct, including  
197        convictions of crimes.

198        c. The offender's family ties, length of residence in the  
199        community, employment history, and mental condition.

200        d. The offender's amenability to nonincarcerative  
201        sanctions based on his or her history and conduct during the  
202        probation or community control supervision from which the  
203        violation hearing arises and any other previous supervisions,  
204        including disciplinary records of previous incarcerations.

205        e. The likelihood that the offender will engage again in a  
206        criminal course of conduct.

207        f. The weight of the evidence against the offender.

208        g. Any other facts the court considers relevant.

209        3. The court must enter a written order in support of its  
210        finding.

211        Section 4. Paragraph (b) of subsection (1) of section  
212        921.0024, Florida Statutes, is amended to read:

213        921.0024 Criminal Punishment Code; worksheet computations;  
214        scoresheets.--

215        (1)

216        (b) WORKSHEET KEY:

217  
218        Legal status points are assessed when any form of legal status  
219        existed at the time the offender committed an offense before the  
220        court for sentencing. Four (4) sentence points are assessed for  
221        an offender's legal status.  
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Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation, and each successive community sanction violation, unless any of the following apply: ~~however,~~

1. If the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for the such violation, and for each successive community sanction violation involving a new felony conviction.

2. If the community sanction violation is committed by a violent felony offender of special concern as defined in s. 948.06, but does not include a new felony conviction, nine (9) community sanction violation points are assessed for the violation and for each successive community sanction violation not involving a new felony conviction.

3. If the community sanction violation is committed by a violent felony offender of special concern as defined in s. 948.06, and includes a new felony conviction before the sentencing court, eighteen (18) community sanction violation points are assessed for the violation and for each successive community sanction violation involving a new felony conviction.

Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.

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250 Prior serious felony points: If the offender has a primary  
 251 offense or any additional offense ranked in level 8, level 9, or  
 252 level 10, and one or more prior serious felonies, a single  
 253 assessment of thirty (30) ~~30~~ points shall be added. For purposes  
 254 of this section, a prior serious felony is an offense in the  
 255 offender's prior record that is ranked in level 8, level 9, or  
 256 level 10 under s. 921.0022 or s. 921.0023 and for which the  
 257 offender is serving a sentence of confinement, supervision, or  
 258 other sanction or for which the offender's date of release from  
 259 confinement, supervision, or other sanction, whichever is later,  
 260 is within 3 years before the date the primary offense or any  
 261 additional offense was committed.

262  
 263 Prior capital felony points: If the offender has one or more  
 264 prior capital felonies in the offender's criminal record, points  
 265 shall be added to the subtotal sentence points of the offender  
 266 equal to twice the number of points the offender receives for  
 267 the primary offense and any additional offense. A prior capital  
 268 felony in the offender's criminal record is a previous capital  
 269 felony offense for which the offender has entered a plea of nolo  
 270 contendere or guilty or has been found guilty; or a felony in  
 271 another jurisdiction which is a capital felony in that  
 272 jurisdiction, or would be a capital felony if the offense were  
 273 committed in this state.

274  
 275 Possession of a firearm, semiautomatic firearm, or machine gun:  
 276 If the offender is convicted of committing or attempting to  
 277 commit any felony other than those enumerated in s. 775.087(2)



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278 while having in his or her possession: a firearm as defined in  
 279 s. 790.001(6), an additional eighteen (18) ~~18~~ sentence points  
 280 are assessed; or if the offender is convicted of committing or  
 281 attempting to commit any felony other than those enumerated in  
 282 s. 775.087(3) while having in his or her possession a  
 283 semiautomatic firearm as defined in s. 775.087(3) or a machine  
 284 gun as defined in s. 790.001(9), an additional twenty-five (25)  
 285 ~~25~~ sentence points are assessed.

286

287 Sentencing multipliers:

288

289 Drug trafficking: If the primary offense is drug trafficking  
 290 under s. 893.135, the subtotal sentence points are multiplied,  
 291 at the discretion of the court, for a level 7 or level 8  
 292 offense, by 1.5. The state attorney may move the sentencing  
 293 court to reduce or suspend the sentence of a person convicted of  
 294 a level 7 or level 8 offense, if the offender provides  
 295 substantial assistance as described in s. 893.135(4).

296

297 Law enforcement protection: If the primary offense is a  
 298 violation of the Law Enforcement Protection Act under s.  
 299 775.0823(2), the subtotal sentence points are multiplied by 2.5.  
 300 If the primary offense is a violation of s. 775.0823(3), (4),  
 301 (5), (6), (7), or (8), the subtotal sentence points are  
 302 multiplied by 2.0. If the primary offense is a violation of s.  
 303 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
 304 Protection Act under s. 775.0823(9) or (10), the subtotal  
 305 sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal sentence points are multiplied by 1.5.

Offense related to a criminal street gang: If the offender is convicted of the primary offense and committed that offense for the purpose of benefiting, promoting, or furthering the interests of a criminal street gang as prohibited under s. 874.04, the subtotal sentence points are multiplied by 1.5.

Domestic violence in the presence of a child: If the offender is convicted of the primary offense and the primary offense is a crime of domestic violence, as defined in s. 741.28, which was committed in the presence of a child under 16 years of age who is a family or household member as defined in s. 741.28(3) with the victim or perpetrator, the subtotal sentence points are multiplied by 1.5.

Section 5. For the purpose of incorporating the amendment made by this act to section 948.06, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 948.012, Florida Statutes, is reenacted to read:

948.012 Split sentence of probation or community control and imprisonment.--

(2) The court may also impose a split sentence whereby the defendant is sentenced to a term of probation which may be

334 followed by a period of incarceration or, with respect to a  
335 felony, into community control, as follows:

336 (b) If the offender does not meet the terms and conditions  
337 of probation or community control, the court may revoke, modify,  
338 or continue the probation or community control as provided in s.  
339 948.06. If the probation or community control is revoked, the  
340 court may impose any sentence that it could have imposed at the  
341 time the offender was placed on probation or community control.  
342 The court may not provide credit for time served for any portion  
343 of a probation or community control term toward a subsequent  
344 term of probation or community control. However, the court may  
345 not impose a subsequent term of probation or community control  
346 which, when combined with any amount of time served on preceding  
347 terms of probation or community control for offenses pending  
348 before the court for sentencing, would exceed the maximum  
349 penalty allowable as provided in s. 775.082. Such term of  
350 incarceration shall be served under applicable law or county  
351 ordinance governing service of sentences in state or county  
352 jurisdiction. This paragraph does not prohibit any other  
353 sanction provided by law.

354 Section 6. For the purpose of incorporating the amendment  
355 made by this act to section 948.06, Florida Statutes, in a  
356 reference thereto, subsection (9) of section 948.10, Florida  
357 Statutes, is reenacted to read:

358 948.10 Community control programs.--

359 (9) Procedures governing violations of community control  
360 shall be the same as those described in s. 948.06 with respect  
361 to probation.

362           Section 7. For the purpose of incorporating the amendment  
363 made by this act to section 948.06, Florida Statutes, in a  
364 reference thereto, section 958.14, Florida Statutes, is  
365 reenacted to read:

366           958.14 Violation of probation or community control  
367 program.--A violation or alleged violation of probation or the  
368 terms of a community control program shall subject the youthful  
369 offender to the provisions of s. 948.06. However, no youthful  
370 offender shall be committed to the custody of the department for  
371 a substantive violation for a period longer than the maximum  
372 sentence for the offense for which he or she was found guilty,  
373 with credit for time served while incarcerated, or for a  
374 technical or nonsubstantive violation for a period longer than 6  
375 years or for a period longer than the maximum sentence for the  
376 offense for which he or she was found guilty, whichever is less,  
377 with credit for time served while incarcerated.

378           Section 8. This act shall take effect July 1, 2006.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 323 CS

Reemployment After Retirement

**SPONSOR(S):** Patterson

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 1474

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Governmental Operations Committee</u>	<u>7 Y, 0 N, w/CS</u>	<u>Mitchell</u>	<u>Williamson</u>
2) <u>Local Government Council</u>	<u>4 Y, 2 N</u>	<u>Nelson</u>	<u>Hamby</u>
3) <u>Fiscal Council</u>	<u></u>	<u>Dobbs</u> <i>DD</i>	<u>Kelly</u> <i>ck</i>
4) <u>State Administration Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

The bill creates a restriction on the reemployment of law enforcement officers, correctional officers and correctional probation officers who retire from an agency under the Florida Retirement System. If these officers seek reemployment at the agency from which they retired, they may only be appointed, reappointed, employed or reemployed at the lowest rank and pay scale for a certified law enforcement officer, correctional officer or correctional probation officer within that agency for a minimum period of three years. The bill makes the certification inactive for a law enforcement officer, correctional officer or correctional probation officer who violates the reemployment restriction.

The bill does not otherwise limit employment or appointment opportunities for the law enforcement officer, correctional officer or correctional probation officer at any other employing agency. This bill also does not change other limitations on employment after retirement.

This bill does not appear to create, modify or eliminate rulemaking authority.

This bill does not appear to have a fiscal impact on any revenues of state government, although the bill may impact the certification monitoring workload of the Florida Department of Law Enforcement.

This bill does not appear to have a fiscal impact on any revenues of local governments. It is unknown, however, whether this bill will create expenditures for local governments for law enforcement or correctional personnel or compliance costs.

The bill provides an effective date of July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Florida Retirement System Act

Chapter 121, F.S., the "Florida Retirement System Act," governs the Florida Retirement System (FRS). The FRS is administered by the secretary of the Department of Management Services through the Division of Retirement.<sup>1</sup>

Section 121.091, F.S., governs the payment of benefits under the FRS. This section requires a member of the FRS to terminate employment or begin participation in the Deferred Retirement Option Program in order to receive benefits. Termination occurs when a member ceases all employment relationships with FRS employers.<sup>2</sup> Termination is void if a member becomes reemployed by any member of the FRS within the next calendar month.<sup>3</sup>

Subsection (9) of s. 121.091, F. S., governs employment after retirement. This provision permits any person who is a retired member of the FRS to be employed by a non-FRS employer and receive retirement benefits. Yet, those persons who are retired members of the FRS and who are reemployed by an FRS employer may not receive both a salary from reemployment and retirement benefits in the period between two and 12 months after the date of retirement. After 12 months from the date of retirement, a person may receive both a salary from reemployment from the FRS employer and retirement benefits.

There currently are several provisions that allow a person who has retired to receive both a salary from reemployment with an FRS employer and retirement benefits in the period between two and 12 months after the date of retirement.<sup>4</sup> These provisions limit the types of positions that the retired FRS member may accept, the number of hours the retired FRS member may work, or both. There currently are no restrictions on the types of positions or the number of hours that a retired FRS member may work with an FRS employer after 12 months.

##### Department of Law Enforcement Act

Chapter 943, F.S., is entitled the "Department of Law Enforcement Act," and includes various provisions relating to law enforcement within the State of Florida. Section 943.1395, F.S., provides conditions relating to the certification of law enforcement officers, correctional officers and correctional probation officers for employment or appointment, and provides for inactive status and revocation of certification.

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<sup>1</sup> Section 121.025, F.S.

<sup>2</sup> Section 121.021(39)(a), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> For example, a district school board may reemploy a retired member as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver or food service worker on a noncontractual basis. See, s. 121.091(9)(b)3, F.S.

## Effect of Proposed Changes

This bill amends s. 943.1395, F.S., to create a restriction on the reemployment of law enforcement officers, correctional officers and correctional probation officers who retire from an agency under ch. 121, F.S. If these officers seek reemployment at the agency from which they retired, they may only be appointed, reappointed, employed or reemployed at the lowest rank and pay scale for a certified law enforcement officer, correctional officer, or correctional probation officer within that agency for a minimum period of three years. The bill makes the certification inactive for a law enforcement officer, correctional officer or correctional probation officer who violates the reemployment restriction.<sup>5</sup>

The bill does not otherwise limit the employment or appointment opportunities for the law enforcement officer, correctional officer or correctional probation officer at any other employing agency. This bill also does not change the limitations on employment after retirement in s. 121.091(9), F.S.

Only anecdotal data was available on the extent to which law enforcement officers, correctional officers and correctional probation officers are reemployed in their previous positions after retiring. Anecdotal data also was the only source for the number of law enforcement/corrections agencies that have policies similar to those proposed by the bill.<sup>6</sup> Some of these incidents, however, have been attributed to employees participating in the Deferred Retirement Option Program,<sup>7</sup> who are required to submit binding letters of termination establishing a deferred termination date.<sup>8</sup>

The changes made by this bill are significantly different from the other limitations on reemployment with an FRS employer after retirement.<sup>9</sup> The bill affects reemployment with only a single FRS employer and applies for three years, and the bill adversely impacts a professional certification.

### C. SECTION DIRECTORY:

- Section 1: Amends s. 943.1395, F.S., to set the conditions of the reemployment of law enforcement officers, correctional officers and correctional probation officers.
- Section 2: Conforms a statutory reference in s. 943.22, F.S.
- Section 3: Provides an effective date of July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

This bill does not appear to create, modify, amend or eliminate any revenues of state government.

#### 2. Expenditures:

This bill may affect the Florida Department of Law Enforcement if the department is required to change its certification monitoring process to comply with the provisions of this bill. The department may be able to absorb any additional costs within existing budget.

<sup>5</sup> Law enforcement officers, correctional officers or correctional probation officers must be certified for appointment to or employment in most positions.

<sup>6</sup> For example, the Florida Highway Patrol has such a practice. Telephone conversation with Colonel Christopher Knight, Florida Highway Patrol (Feb. 2, 2006). The Marion County Sheriff's Office also has a similar policy. Testimony before the Fla. House Gov't Ops. Comm. (Mar. 15, 2006) (recording on file with the Fla. House of Representatives.).

<sup>7</sup> Testimony before the Fla. House Gov't Ops. Comm. (Mar. 15, 2006) (recording on file with the Fla. House of Representatives.).

<sup>8</sup> Section 121.091(13)(b)2.b, F.S.; *see also* s. 121.091(13)(c)5.d., F.S. (reestablishing membership in the Florida Retirement System and requiring repayment plus interest for a participant who fails to terminate employment).

<sup>9</sup> As previously discussed, most limitations allow a person who has retired to receive both a salary from reemployment with an FRS employer and retirement benefits in the period between two and 12 months after the date of retirement as long as the retired person works in designated positions and/or not more than a certain number of hours.



## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

This bill does not appear to create, modify, amend or eliminate any revenues of local governments.

### 2. Expenditures:

It is unknown whether this bill will create expenditures for local governments for law enforcement or correctional personnel or compliance costs.

## C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

## D. FISCAL COMMENTS:

The Department of Management Services provided a fiscal note from the Enrolled Actuary regarding the bill as filed:

This bill does not alter existing reemployment exceptions or create new exceptions or requirements for forfeiture of benefits during reemployment. In its current form, this bill would not have a fiscal impact on the FRS.<sup>10</sup>

The Committee Substitute does not appear to change this fiscal note.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

#### 2. Other:

Benefit changes to the state retirement system are governed by s. 14 of Art. X of the State Constitution. Since this bill does not change state retirement system benefits, this section does not apply.

### B. RULE-MAKING AUTHORITY:

The bill does not appear to create, modify or eliminate rulemaking authority.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

#### Other Comments

The Florida Sheriffs Association raised three concerns regarding this bill: (1) it conflicts with the independence of constitutional officers provided in s. 30.53, F.S.; (2) it creates a discriminatory policy towards three classes of employees; and (3) it runs counter to recent legislative changes that encourage the reemployment of employees with specialized experience.<sup>11</sup>

<sup>10</sup> *Id.*

<sup>11</sup> Florida Sheriffs Association, *Reemployment of Retired Officers* (Feb. 7, 2006); Testimony before the Fla. House Gov't Ops. Comm. (Mar. 15, 2006) (recording on file with the Fla. House of Representatives.).

The Florida Police Benevolent Association (FPBA) is a proponent of this bill. It believes that the bill will serve to prevent an abuse of the state retirement system whereby employees retire and then return to work in their previously-held positions. Also, the FPBA believes that by ensuring that employees permanently retire from higher-level positions, the bill will remove impediments for other officers seeking promotion through the ranks.<sup>12</sup>

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

At its meeting on March 15, 2006, the Governmental Operations Committee adopted a substitute strike-everything amendment and approved the bill with committee substitute. The substitute strike-everything amendment provided that if a law enforcement officer, correctional officer or correctional probation officer seeks to return to the agency from which that officer retired, that officer may only be appointed, reappointed, employed or reemployed at the lowest rank and pay scale for those officers within that agency for a minimum period of three years. The substitute amendment made the certification of a law enforcement officer, correctional officer or correctional probation officer who violates this reemployment restriction inactive. The substitute strike-everything amendment also moved the statutory revisions from Chapter 121, F.S., (Florida Retirement System) to Chapter 943, F.S., (Department of Law Enforcement). This change was made because the statutory revisions are more related to employment than retirement benefits.

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<sup>12</sup> Telephone conversation with FPBA representative on March 27, 2006.

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CHAMBER ACTION

The Governmental Operations Committee recommends the following:

**Council/Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to reemployment after retirement; amending s. 943.1395, F.S.; prohibiting certain reemployment for certain law enforcement, correctional, and correctional probation officers; conforming cross-references; amending s. 943.22, F.S.; conforming a cross-reference; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (4) through (10) of section 943.1395, Florida Statutes, are renumbered as subsections (5) through (11), respectively, present subsections (8) and (9) are amended, and a new subsection (4) is added to that section, to read:

943.1395 Certification for employment or appointment; concurrent certification; reemployment or reappointment; reemployment after retirement; inactive status; revocation; suspension; investigation.--

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24        (4) A law enforcement officer, correctional officer, or  
25 correctional probation officer seeking appointment,  
26 reappointment, employment, or reemployment with the same  
27 employing agency from which the law enforcement officer,  
28 correctional officer, or correctional probation officer retired  
29 under chapter 121 may only be appointed, reappointed, employed,  
30 or reemployed at the lowest rank and pay scale for a certified  
31 law enforcement officer, correctional officer, or correctional  
32 probation officer within the employing agency for a minimum of 3  
33 years. The certification of a law enforcement officer,  
34 correctional officer, or correctional probation officer who  
35 violates the provisions of this subsection shall become  
36 inactive. This subsection shall not otherwise limit the  
37 employment or appointment opportunities for the law enforcement  
38 officer, correctional officer, or correctional probation officer  
39 at any other employing agency. This subsection shall not change  
40 the applicable limitations in s. 121.091(9).

41        (9)~~(8)~~(a) The commission shall, by rule, adopt  
42 disciplinary guidelines and procedures to administer the  
43 penalties provided in subsections (7) ~~(6)~~ and (8) ~~(7)~~. The  
44 commission may, by rule, prescribe penalties for certain  
45 offenses. The commission shall, by rule, set forth aggravating  
46 and mitigating circumstances to be considered when imposing the  
47 penalties provided in subsection (8) ~~(7)~~.

48        (b)1. The disciplinary guidelines and prescribed penalties  
49 must be based upon the severity of specific offenses. The  
50 guidelines must provide reasonable and meaningful notice to  
51 officers and to the public of penalties that may be imposed for

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52 prohibited conduct. The penalties must be consistently applied  
53 by the commission.

54 2. On or before July 1 of each odd-numbered year, the  
55 commission shall conduct a workshop to receive public comment  
56 and evaluate disciplinary guidelines and penalties. The  
57 commission chair shall appoint a 12-member advisory panel,  
58 composed of six officers and six representatives of criminal  
59 justice management positions, to make recommendations to the  
60 commission concerning disciplinary guidelines.

61 (c) For the purpose of implementing the penalties provided  
62 in subsections (7) ~~(6)~~ and (8) ~~(7)~~, the chair of the commission  
63 may appoint one or more panels of three commissioners each to  
64 determine probable cause. In lieu of a finding of probable  
65 cause, the probable cause panel may issue a letter of guidance  
66 to the officer.

67 (d) When an employing agency disciplines an officer and  
68 the officer's employment is continued or reinstated by the  
69 agency, the Criminal Justice Professionalism Program shall  
70 review the sustained disciplinary charges and disciplinary  
71 penalty to determine whether the penalty conforms to the  
72 disciplinary penalties prescribed by commission rule, and, in  
73 writing, notify the employing agency and officer of the results  
74 of the review. If the penalty conforms to the disciplinary  
75 penalty provided by rule, the officer and employing agency shall  
76 be notified, by a letter of acknowledgment, that no further  
77 action shall be taken. If the penalty does not conform to such  
78 disciplinary penalty prescribed by rule, the officer and  
79 employer shall be notified, in writing, of further action to be

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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80 taken. The commission shall adopt rules establishing procedures  
81 for administering this subsection.

82 (e) An administrative law judge assigned to conduct a  
83 hearing under ss. 120.569 and 120.57(1) regarding allegations  
84 that an officer is not in compliance with, or has failed to  
85 maintain compliance with, s. 943.13(4) or (7) must, in his or  
86 her recommended order:

87 1. Adhere to the disciplinary guidelines and penalties set  
88 forth in subsections (7) ~~(6)~~ and (8) ~~(7)~~ and the rules adopted  
89 by the commission for the type of offense committed.

90 2. Specify, in writing, any aggravating or mitigating  
91 circumstance that he or she considered in determining the  
92 recommended penalty.

93  
94 Any deviation from the disciplinary guidelines or prescribed  
95 penalty must be based upon circumstances or factors that  
96 reasonably justify the aggravation or mitigation of the penalty.  
97 Any deviation from the disciplinary guidelines or prescribed  
98 penalty must be explained, in writing, by the administrative law  
99 judge.

100 (10) ~~(9)~~ Each person employed pursuant to s. 943.131 is  
101 subject to discipline by the commission. Persons who have been  
102 subject to disciplinary action pursuant to this subsection are  
103 ineligible for employment or appointment under s. 943.131.

104 (a) The commission shall cause to be investigated any  
105 conduct defined in subsection (7) ~~(6)~~ or subsection (8) ~~(7)~~ by a  
106 person employed under s. 943.131 and shall set disciplinary

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107 guidelines and penalties prescribed in rules applicable to such  
108 noncertified persons.

109       (b) The disciplinary guidelines and prescribed penalties  
110 must be based upon the severity of specific offenses. The  
111 guidelines must provide reasonable and meaningful notice to  
112 officers and to the public of penalties that may be imposed for  
113 prohibited conduct. The penalties must be consistently applied  
114 by the commission.

115       (c) In addition, the commission may establish violations  
116 and disciplinary penalties for intentional abuse of the  
117 employment option provided by s. 943.131 by an individual or  
118 employing agency.

119       Section 2. Subsection (5) of section 943.22, Florida  
120 Statutes, is amended to read:

121       943.22 Salary incentive program for full-time officers.--

122       (5) An officer is not entitled to full or proportional  
123 salary incentive payments for training completed pursuant to s.  
124 943.1395 (8) ~~(7)~~.

125       Section 3. This act shall take effect July 1, 2006.





# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 561 CS

Offenses Involving Insurance

SPONSOR(S): Rivera

TIED BILLS:

IDEN./SIM. BILLS: SB 1596

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Committee	15 Y, 0 N, w/CS	Freire	Cooper
2) Criminal Justice Committee	6 Y, 0 N	Kramer	Kramer
3) Fiscal Council		McAuliffe/Reynolds	Kelly <i>CK</i>
4) Commerce Council			
5)			

## SUMMARY ANALYSIS

The bill relates primarily to insurance fraud in various types of insurance. The bill:

- requires specified information in police reports and creates a rebuttable presumption that only passengers mentioned in the police report were involved in the accident;
- provides an extra fee for reinstating a driver's license revoked because of insurance fraud;
- provides that any person convicted of certain insurance frauds will have their driver's license revoked;
- requires, and provides enforcement for, every health care clinic licensed under Chapter 400 to post a sign that indicates individuals may receive rewards for furnishing to the Division of Insurance Fraud (DIF) reports and information about crimes investigated by DIF that lead to arrest and conviction;
- eliminates a misdemeanor penalty for the violation of a stop work order to clarify that offense is a felony;
- updates the definition of "kickback" by broadening its scope;
- provides any willful violation of a rule of the Department of Financial Services (DFS), the Office of Insurance Regulation (OIR), or the Financial Services Commission (FSC) would be a second degree misdemeanor;
- makes each willful violation of an emergency rule or emergency order of DFS, OIR, or FSC by an unlicensed or unauthorized person a third degree felony, with each willful violation considered a separate offense;
- clarifies that any person who knowingly engages in insurance activities without a license commits a third degree felony;
- clarifies independent procurement of coverage (IPC) to state that IPC is coverage which is not solicited, marketed, negotiated, or sold in Florida;
- clarifies that insurers must timely submit final acceptable anti-fraud plans, and provides for imposition of administrative fines for a violation of that requirement;
- provides that service providers cannot bill usual and customary charges if a provider agrees with a patient to waive the deductible or co-payment, and that a person may not participate in a scheme to create documentation of a motor vehicle crash that did not occur;
- clarifies that fraudulent proof of motor vehicle insurance is a third degree felony;
- requires insurers to provide a fraud advisory notice to an insured who filed a claim for reimbursement;
- provides an exception to the statute pertaining to fraudulently obtaining goods and services from a health care provider for investigative actions taken by law enforcement officers for law enforcement purposes;
- enhances the definition of patient brokering, and defines that a health care provider or facility is one that is licensed, certified, or registered with the Agency for Health Care Administration or the Department of Health;
- includes falsely personating an officer of DFS in the list of officers it is unlawful to personate;
- creates a forfeiture account in the Insurance Regulatory Trust Fund for deposit of criminal and forfeiture proceeds obtained by DIF; and
- provides that if any provision of this act is found invalid, the invalidity does not affect the other provisions.

The fiscal impact on the private sector includes increased penalties, including criminal prosecution, for various acts specified in the bill. The fiscal impact on the state cannot be determined at this time, but the impact should not be significant (see Fiscal Comments). The effective date of the bill is July 1, 2006.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 3/31/2006

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government:** The bill requires a health care clinic to post a sign relating to rewards for information regarding insurance fraud. Enforcement of the sign posting requirement will be done by the Department of Financial Services (DFS).

**Safeguard Individual Liberty & Promote Personal Responsibility:** The bill creates new penalties for violations of a department rule, emergency rule or emergency order. It creates a new penalty for insurance licensees transacting insurance or engaging in insurance activities without a license. It creates a new penalty for fabrication of "paper" motor vehicle accidents. It adds new circumstances constituting unlawful patient brokering.

#### B. EFFECT OF PROPOSED CHANGES:

##### General Background

*Insurance Fraud Investigations by the Division of Insurance Fraud:* Currently, the Division of Insurance Fraud (DIF) within the Department of Financial Services (DFS) employs sworn law enforcement officers who investigate allegations of unauthorized insurance activities, fraudulent insurance acts, unfair methods of insurance competition or unfair or deceptive insurance acts or practices.<sup>1</sup> These officers may make warrantless arrests upon probable cause for criminal violations established as a result of an investigation.<sup>2</sup> The general laws applicable to arrests by state law enforcement officers apply to Division investigators.

As of 2005, the DIF had arrested over 900 people allegedly connected to more than \$25 million in personal injury fraud in the past five years. More than 70 people faced or were serving the minimum prison sentence.<sup>3</sup>

##### Crash Report

Section 316.066, F.S., requires certain written reports of crashes to be filed with the Department of Highway Safety and Motor Vehicles. The section provides for a "short-form report" which is required to include the following information:

- The date, time, and location of the crash;
- A description of the vehicles involved;
- The names and addresses of the parties involved;
- The names and addresses of all drivers and passengers in the vehicles involved;
- The names and addresses of witnesses;
- The name, badge number, and law enforcement agency of the officer investigating the crash; and
- The names of the insurance companies for the respective parties involved in the crash unless not available.

The bill amends s. 316.068(2), F.S., to provide that each crash report required to be made in writing must contain all of the information specified above. The bill provides that the absence of information regarding the existence of a passenger in a police report creates a rebuttable presumption that no such passengers were involved in the reported crash.

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<sup>1</sup> s. 626.989(2), F.S. (2004).

<sup>2</sup> s. 626.989(7), F.S. (2004).

<sup>3</sup> Baird Helgeson, "Bill Targets Insurance Shenanigans," *The Tampa Tribune*, 5 April 2005.

## **Revocation of Licenses**

Section 322.21(8), F.S., governs fees relating to applying for reinstatement of a suspended or revoked driver's license. It provides that a person must pay a \$35 service fee to apply for reinstatement of a suspended driver's license and a \$60 fee to apply for reinstatement of a revoked driver's license, in addition to the fee for a license. The fees are divided between the General Revenue Fund and the Highway Safety Operating Trust Fund.

The bill provides that if the revocation or suspension of the driver's license was for a conviction of patient brokering (s. 817.505, F.S.), or for solicitation (s. 817.234(8), F.S.), or for participating in a staged crash (s. 817.234(9), F.S.), there is an additional fee of \$180 for each offense. The bill provides that the Department of Highway Safety and Motor Vehicles (DHSMV) will deposit the additional fee into the Highway Safety Operating Trust Fund.

The bill amends s. 322.21, F.S., to require the DHSMV to revoke the driving privileges of anyone convicted under s. 817, 505, F.S., or s. 817.234(8) or (9), F.S.

## **Health Care Clinics**

Health care clinics are defined as entities at which health care services are provided to individuals and which tender charges for reimbursement for such services.<sup>4</sup>

Health care clinics are primarily licensed by the Agency for Health Care Administration (AHCA).<sup>5</sup> The term "medical director" means a physician, employed by or under contract with a clinic, who maintains an unencumbered physician license in accordance with chs. 458 (physicians), 459 (osteopathic physicians), 460 (chiropractors), or 461 (podiatrists), F.S.<sup>6</sup>

Under current law, there is no requirement in the health care licensure statute (ch. 400) for health care clinics to post signs relating to rewards for insurance fraud. Current law provides for an Anti-Fraud Reward Program to be established within the DFS which is funded from the Insurance Regulatory Trust Fund.<sup>7</sup> Under the program, the DFS may pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the DIF arising from specified violations. Only a single reward amount may be paid out for claims arising from the same transaction.

Additionally, current law requires the AHCA to make inspections of health care clinics as part of the initial license application and renewal application procedures.<sup>8</sup> AHCA may also make unannounced inspections of licensed clinics as necessary to determine compliance with the Health Care Clinic Act under Part XIII of chapter 400, F.S.

The bill amends s. 400.9935, F.S., to require that every medical clinic licensed under Chapter 400 post a sign that indicates that individuals may receive rewards for furnishing to the Division of Insurance Fraud (DIF) reports and information about committing crimes investigated by DIF that lead to arrest and conviction. The sign must be posted in a conspicuous location visible to all patients. The crimes the posting would disclose are:

- s. 440.105, F.S., relating to prohibited activities under the workers' compensation law;
- s. 624.15, F.S., relating to willful violations of the Insurance Code;

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<sup>4</sup> s. 400.9905(4), F.S. (2004).

<sup>5</sup> See s. 400.9905(4), F.S., for a listing of entities that are not required to be licensed by AHCA.

<sup>6</sup> s. 400.9905(5), F.S. (2004).

<sup>7</sup> s. 626.9892, F.S. (2004).

<sup>8</sup> s. 400.9915, F.S. (2004).

- s. 626.9541, F.S., relating to unfair methods of competition and unfair or deceptive acts under the Insurance Code;
- s. 626.989, F.S., relating to resisting an arrest or otherwise interfering with DIF investigators; or
- s. 817.234, F.S., relating to false and fraudulent insurance claims.

The DFS will enforce the posting requirement. Sworn law enforcement investigators of DIF would have the authority to make unannounced inspections of licensed clinics to ensure that such requirement is being met. The bill requires the clinics to allow “full and complete access to the premises” to DIF employees to determine whether the clinic is complying with the posting requirements. The clinic would be required to post the sign in a conspicuous location visible to all patients.

Similarly, section 12 of the bill adds subsection 14 to s. 627.736, F.S., requiring an insurer to provide a person who has filed a claim of reimbursement to provide the insured with a Fraud Advisory Notice. The notice must state that the DFS may pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the DIF arising from the crimes disclosed in the posted signs.

### **Workers’ Compensation**

The Division of Workers’ Compensation (DWC) and the DIF both within DFS must work closely together to carry out their statutory duties. The DWC enforces administrative compliance with the workers’ compensation law, pursuant to s. 440.107, F.S. The DIF enforces the criminal provisions of the workers’ compensation law, pursuant to s. 440.105, F.S. The divisions have developed and implemented a referral program to facilitate the referral of cases between the divisions so that each division can determine if an investigation will be initiated from the referral. According to the DWC, referrals are made to each division within 24 hours of a suspected violation of the law, and are considered a priority to be acted upon immediately.

In 2003, the Legislature passed worker’s compensation reform that made a violation of a stop work order a felony of the third degree.<sup>9</sup> However, a separate statutory provision making a violation of a stop work order a misdemeanor was not repealed.<sup>10</sup> The bill removes the conflicting statutory penalty provision for violation of a stop work order. Accordingly, a violation of a stop work order is punishable as a third degree felony.

### **Regulation of Professions and Occupations:**

Chapter 456, F.S., regulates Health Professions and Occupations. Currently, s. 456.054, F.S., prohibits kickbacks. The bill expands the definition of “kickback” to mean a remuneration or payment by or on behalf of a provider of health care services or items to any person as incentive or inducement to refer patients for past or future services or items, when the payment is not tax deductible as an ordinary and necessary expense.

### **Violations of Administrative Rules, Emergency Rules, or Emergency Orders**

The Florida Insurance Code (Code) is contained in chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S.<sup>11</sup> The Code contains numerous penalty provisions which are specific to a particular violation. However, the Code also contains general penalty provisions that apply for violations of the Code when no other penalty is provided in the Code or in other applicable laws. Section 624.15, F.S., is a general penalty provision in the Code. It makes any willful violation of the Code a second degree misdemeanor.

<sup>9</sup> Ch. 2003-412, L.O.F.; see s. 440.105(4)(b)8., F.S. (2004).

<sup>10</sup> s. 440.105(2)(a)4., F.S. (2004).

<sup>11</sup> s. 624.01, F.S. (2004).

The bill amends the general penalty provision in s. 624.15, F.S. to include willful violations of an administrative rule of DFS, the Office of Insurance Regulation (OIR), or the Financial Services Commission. Therefore, any willful violation of an administrative rule of DFS, OIR, or the Financial Services Commission would be a second degree misdemeanor. Each instance of the willful violation will be considered a separate offense. According to DFS, this provision would allow DIF investigators to enforce violations of DFS rules (by misdemeanor arrest) the same way they may currently enforce violations of the Insurance Code. This provision would be in addition to current penalties pertaining to the denial, suspension, or revocation of a certificate of authority, license or permit.<sup>12</sup>

Under current law, the DFS may issue emergency rules after a natural disaster (hurricane) or other types of emergencies depending on the nature of the insurance issue.<sup>13</sup> During the 2004 hurricane season, the DFS issued approximately 12 emergency rules pertaining to public adjusters, mediation, and insurance agents.

The bill adds a provision to the general penalty provision in s. 624.15, F.S. The added provision makes each willful violation of an emergency rule or emergency order of DFS, OIR, or the Financial Services Commission by someone who is not licensed, authorized or eligible to engage in business in accordance with the Insurance Code a third degree felony with each willful violation considered a separate offense. There is no criminal penalty in current law for willful violations of emergency rules or emergency orders.

### **Unauthorized Insurers**

Section 626.112, F.S., provides that no person may hold himself or herself out to be an insurance agent unless he or she is licensed by the department and appointed by an appropriate entity or person. The bill amends s. 622.112, F.S., to provide that "any person who knowingly transacts insurance or otherwise engages in insurance activities in this state without a license in violation of this section commits a felony of the third degree."

### **Independently Procured Coverage:**

Independently procured coverage (IPC) is insurance coverage that an insured in Florida, typically a business, obtains by directly contacting an unauthorized foreign or alien<sup>14</sup> insurer, or self insurer.<sup>15</sup> The insured must file specific information about the policy with the Florida Surplus Lines Service Office (Office) and must pay 5 percent of the gross amount of the premium and a 0.3 percent service fee to the Office.

Currently, subsection (4) of s. 626.901, F.S., exempts *independently procured coverage* (IPC) from being included within the definition of unauthorized insurance. The bill clarifies that IPC coverage is *not coverage which is solicited, marketed, negotiated, or sold* in Florida. This clarification is necessary, according to OIR officials, because some unauthorized insurers have asserted the defense that they are soliciting or selling IPC and therefore are not in violation of the unauthorized entities provisions.

The bill amends s. 626.938, F.S., pertaining to reporting and taxing of IPC. The law currently allows persons in Florida to independently procure insurance from foreign (out of state) or alien (out of country) insurers that do not hold a Florida certificate of authority (COA) and to pay all necessary taxes and fees. The bill clarifies independently procured coverage to provide that every insured who

<sup>12</sup> In Avatar Development Corporation v. State, 723 So.2d 199 (Fla. 1998), the Florida Supreme Court held that a statute making it a misdemeanor to willfully violate any administrative rule, regulation or permit condition promulgated by the Department of Environmental Protection was a constitutionally valid delegation of legislative authority to an administrative agency.

<sup>13</sup> Under s. 120.54, F.S., agencies are authorized to issue emergency rules if necessary to protect the public health, safety or welfare.

<sup>14</sup> Insurers are divided into three categories under the Insurance Code: *domestic insurers* are formed under the laws of Florida; *foreign insurers* are formed under the laws of any state, district, or territory or commonwealth of the United States, other than Florida; and *alien insurers* are defined as insurers other than domestic or foreign insurers. Foreign and alien insurers must meet certain capital, surplus, and operational requirements.

<sup>15</sup> s. 626.938, F.S. (2004).

“resides” in Florida and procures insurance “from another state or country” with an unauthorized insurer “legitimately licensed in that other jurisdiction,” or any self-insurer who “resides” in this state and so procures insurance, must within 30 days file a report with the Florida Surplus Lines Service Office. This clarification is necessary because some unauthorized insurers have asserted the defense that they are soliciting or selling IPC and therefore are not in violation of the unauthorized entities provisions of the Insurance Code.

The bill also provides that IPC may not be secured for workers’ compensation coverage.

### **Anti-fraud Investigative Unit**

Section 626.9891, F.S., is entitled “Insurer anti-fraud investigative units; reporting requirements; penalties for noncompliance.” The statute requires insurers who had \$10 million or more in direct premiums in the previous calendar year to establish or contract a unit to investigate fraudulent claims. The bill amends s. 626.9891(7), F.S., to provide that an insurer must timely submit a final acceptable anti-fraud plan or anti-fraud investigative unit description, and it gives the department, office, or commission the right to impose fines if insurers fail to submit an acceptable anti-fraud plan.

### **Forfeiture Account**

Under current law, unless otherwise provided in the law, proceeds of a state agency accrued under the Florida Contraband Forfeiture Act are put into the General Revenue Fund.<sup>16</sup> According to DFS, DIF is one of the few law enforcement organizations in the state not to have a forfeiture fund or account into which to deposit proceeds from criminal or forfeiture proceedings.<sup>17</sup> Thus, any proceeds DIF collects from such proceedings are deposited into the General Revenue Fund.

The bill creates a forfeiture account in the Insurance Regulatory Trust Fund into which proceeds derived from DFS’ criminal and forfeiture proceedings are to be deposited. Thus, such proceeds will no longer be deposited into the General Revenue Fund. According to DFS, once the forfeiture account is created, it may be used to purchase special equipment and other non-budgeted items that enhance the DFS’s ability to detect crime and enforce criminal laws.<sup>18</sup> The department also indicates that the existence of the forfeiture account would create the necessary incentive for officers or investigators to pursue forfeiture actions in conjunction with their cases, and for DFS to take on the considerable expense in seeing these actions to fruition.<sup>19</sup>

### **False and Fraudulent Insurance Claims**

Under current law, any physician and other healthcare provider (except hospitals) who waives deductibles or co-payments as a general business practice commits insurance fraud. The bill would extend the application of the statute to any “service” provider. The proposal also deletes the term ‘patient’ and inserts the term ‘insured’ pertaining to the waiver of deductibles or co-payments with the provider.<sup>20</sup>

Current law provides that it is a second degree felony (with a 2 year minimum term of imprisonment) to plan or organize an intentional motor vehicle crash for the purpose of making a tort claim.<sup>21</sup> The bill expands this provision to make it a second degree felony to plan or organize a “scheme to create documentation of a motor vehicle crash that did not occur” for purposes of a tort claim or personal injury protection benefits claim. According to representatives with DFS, adding the crime of a “paper accident”

<sup>16</sup> s. 932.7055(6), F.S. (2004). For example, under s. 626.9893, proceeds obtained by the Florida Department of Law Enforcement is deposited in the Forfeiture Investigative Support Trust Fund and proceeds obtained by the Department of Environmental Protection is deposited in the Internal Improvement Trust Fund.

<sup>17</sup> Personal communication from DFS on file with the Insurance Committee.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> s. 817.234(7)(a), F.S.

<sup>21</sup> s. 817.234(9), F.S.

would deter motor vehicle insurance fraud. DFS officials estimate that bogus automobile insurance claims add \$240 to every automobile insurance policy each year and increase costs for goods and services.<sup>22</sup>

Current law makes it a third degree felony to create, market, or present a false or fraudulent insurance card. The bill expands the applicability of the statute to provide that any person who presents false or fraudulent "proof of" motor vehicle insurance commits a third degree felony.<sup>23</sup>

Under current law, giving a false or fictitious name to a health care provider, giving a false or fictitious address to a health care provider, or assigning the proceeds of any health maintenance contract or insurance contract to a health care provider knowing the contract is invalid or void is prima facie evidence the person giving false information has intent to defraud the health care provider.<sup>24</sup> According to staff at DFS, during the course of an insurance fraud investigation a DFS investigator may give a false name or address or false information relating to a health insurance policy to a health care provider they are investigating. This information is given to a health care provider in order for DFS to obtain information about the medical treatment given by, and billing practices of, the health care provider.

There are no exceptions for activities of law enforcement officers giving false or fictitious information for law enforcement purposes under current law. The bill amends current law to provide such an exception. The bill's provision in this regard will protect investigators who are engaged in undercover police investigations.

### **Patient Brokering**

Presently, it is a third degree felony for a person, health care provider or facility to pay or bribe in cash or in kind to induce the referral of patients from or to a health care provider or health care facility.<sup>25</sup> The bill would add a provision stating that it is a third degree felony to solicit or receive any commission, bonus, rebate, kickback, or bribe in cash or in kind or engage in a split-fee arrangement in any form whatsoever in return for the acceptance or acknowledgment of treatment from a health care provider or facility.

Under current law, for the purposes of patient brokering, a health care provider or health care facility is defined, in part, as "any person or entity licensed, certified, or registered." The bill amends the definition of a health care provider or health care facility to include providers "required to be licensed, certified, or registered; or lawfully exempt from being required to be licensed, certified, or registered" with the Agency for Health Care Administration.

### **Falsely Personating an Officer**

A person who falsely assumes or pretends to be an officer and "takes upon himself or herself to act as such" commits a third degree felony pursuant to s. 843.08, F.S. The officers specified in s. 843.08, F.S., are:

- Sheriff,
- Officer of the Florida Highway Patrol,
- Officer of the Fish and Wildlife Conservation Commission,
- Office of the Department of Environmental Protection,
- Officer of the Department of Transportation,
- Officer of the Department of Corrections,
- Correctional Probation Officer,
- Deputy Sheriff,

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<sup>22</sup> Baird Helgeson, "Bill Targets Insurance Shenanigans," The Tampa Tribune, 5 April 2005; Personal communication from DFS on file with the Insurance Committee.

<sup>23</sup> s. 817.2361, F.S.

<sup>24</sup> s. 817.50(2), F.S. (2004).

<sup>25</sup> s. 817.505, F.S.

- State Attorney,
- Assistant State Attorney,
- Statewide Prosecutor,
- Assistant Statewide Prosecutor,
- State Attorney Investigator,
- Coroner,
- Police Officer,
- Lottery Special Agent,
- Lottery Investigator,
- Beverage Enforcement Agent,
- Watchman,
- Any member of the Parole Commission,
- Any administrative aide of the Parole Commission,
- Any supervisor of the Parole Commission, or
- Any personnel or representative of the Florida Department of Law Enforcement.

The bill adds “officer of the Department of Financial Services” to the list of officers. Thus, falsely assuming or pretending to be an officer of DFS will be a third degree felony, unless the officer is personated during the commission of a felony, in which case personating an officer of DFS is a second degree felony. However, if the commission of a felony results in death or personal injury of another, then the penalty for personating a DFS officer becomes a first degree felony.<sup>26</sup>

### **Severability Clause**

The bill provides that if any section of the bill is found to be invalid such invalidity does not affect other provisions or applications of the act which can be given effect. It declares each provision of the act severable.

### **C. SECTION DIRECTORY:**

**Section 1.** Amends s. 316.068(2), F.S., to specify what information is required in a police report, and creates a rebuttable presumption that passengers not mentioned in the report were not in the vehicle.

**Section 2.** Amends s. 322.21(8), F.S., to provide an additional fee for the reinstatement of a suspended or revoked driver’s license when the license was suspended or revoked for violation of s. 817.234(8) or (9), insurance fraud, or s. 817.505, F.S., prohibiting patient brokering.

**Section 3.** Creates s. 322.26(9), F.S., providing the department shall revoke the license of any person convicted under s. 817.234 (8) or 9, F.S., or s. 817.505, F.S.

**Section 4.** Creates s. 400.9935(13), F.S., requiring clinics to post signs with information regarding insurance fraud.

**Section 5.** Amends s. 440.105, F.S., by removing a prohibited activity from subsection 2.

**Section 6.** Amends s. 456.054, F.S., defining “kickback.”

**Section 7.** Amends s. 624.15, F.S., to include general penalties for violation of rules of the department, office, or commission.

**Section 8.** Amends s. 626.112, F.S., to provide a penalty for the violation of insurance license requirements.

<sup>26</sup> In *State v. Alecia*, 692 So.2d 263 (Fla. 5<sup>th</sup> DCA 1997), the Fifth District Court of Appeal held that the statute was not unconstitutionally vague or overbroad as applied to a defendant who identified himself as deputy sheriff while trying to obtain information about recent suspicious activity in his neighborhood.



**Section 9.** Amends s. 626.938, F.S., relating to the reporting and taxing of independently procured coverages.

**Section 10.** Amends s. 626.9891, F.S., concerning penalties for non-compliance of anti-fraud investigative units.

**Section 11.** Creates s. 626.9893, F.S., relating to the disposition of revenues from criminal or forfeiture proceedings.

**Section 12.** Creates s. 627.736(14), F.S., requiring insurance companies to provide a fraud advisory notice when an insured files a claim.

**Section 13.** Amends s. 817.234, F.S., relating to false and fraudulent claims.

**Section 14.** Amends s. 817.2361, F.S., relating to false or fraudulent proof of motor vehicle insurance.

**Section 15.** Amends s. 817.50(2), F.S., relating to the fraudulent obtaining of goods and services.

**Section 16.** Amends s. 817.505, F.S., relating to patient brokering.

**Section 17.** Amends s. 843.08, F.S., relating to falsely personating an officer.

**Section 18.** Creates s. 932.7055(6)(n), F.S., relating to the disposition of liens and forfeited property.

**Section 19.** Provides that if any provision of this act is invalid, such invalidity does not affect other provisions in the act.

**Section 20.** Provides an effective date of July 1, 2006.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

See Fiscal Comments.

#### **2. Expenditures:**

See Fiscal Comments.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Health care clinics would be responsible for placing anti-fraud reward signs in conspicuous locations within their clinics and must allow complete access to their premises to law enforcement personnel within the DIF to make inspections to determine compliance with the signage requirement.

Persons would be subject to increased penalties, including criminal prosecution, for various acts specified by the bill. Criminal fines ordered by a Court pursuant to s. 775.083, F.S., must be deposited in the trust fund for the clerk of the circuit court for that particular county, such fund being created by s. 142.01, F.S.

#### **D. FISCAL COMMENTS:**

Representatives with DFS stated that the responsibilities set forth in the bill will be carried out within the existing resources of the agency. The DIF has not estimated at this time how much revenue will be received due to administrative fines imposed against insurers for failing to submit acceptable anti-fraud plans or anti-fraud unit descriptions.

The Criminal Justice Estimating Conference states that the penalty provisions of this legislation have an indeterminate, but likely insignificant, prison bed impact.

It is not known how much moneys would be deposited by the Division of Insurance Fraud into the Insurance Regulatory Trust Fund as a result of criminal proceedings or forfeiture proceedings under the bill. Such amounts are currently deposited into the General Revenue Fund.

The bill proposes a new surcharge (\$180) when persons convicted on specific insurance fraud offenses seek reinstatement of their suspended or revoked driver's license. Representatives with the DHSMV state that the amount to be collected is "indeterminate" since the number of such convictions is unknown.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

The DIF is authorized to adopt rules relating to the manner in which suspected fraudulent activity is reported to DIF in a standardized referral form.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

The Office of Insurance Regulation (OIR) suggests an amendment to section 11 of the bill. Section 11 amends s. 627.736, F.S., and adds a requirement that an insurer shall provide a notice to the insured or to a person for whom a claim for reimbursement for diagnosis or treatment of injuries has been filed, stating that the DIF may pay monetary rewards to persons giving information leading to the arrest and conviction of persons charged with certain crimes.<sup>27</sup>

OIR stated that s. 627.7401, F.S., requires the Financial Services Commission (FSC) to adopt a "Notification of Insured Rights" form for use with PIP claims. In lieu of creating a new notice document, as required by the newly created s. 627.736(14), F.S., OIR suggests an amendment to s. 627.7401,

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<sup>27</sup> OIR Legislative Analysis, on file with the insurance committee.

F.S., which accomplishes the notice provision in a single form. This would eliminate any increased administrative expense by insurers.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

At the March 23, 2006 meeting, the Insurance Committee approved HB 561 with an amendment. The amendment amended s. 316.068(2), F.S., by requiring crash report forms to include certain information about the accident, specifically, the amendment requires a crash report to include the name of all passengers in a vehicle. The amendment makes the absence of information in a crash report concerning the existence of passengers in the vehicles a rebuttable presumption that no such passengers were in the vehicle. The bill as originally filed did not affect s. 316.068(2), F.S.

This analysis has been updated to reflect the changes made by the Insurance Committee at its March 23, 2006, meeting.

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CHAMBER ACTION

The Insurance Committee recommends the following:

**Council/Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to offenses involving insurance; amending s. 316.068, F.S.; specifying information to be included in a crash report; creating a rebuttable presumption relating to the absence of certain information in such reports; amending s. 322.21, F.S.; providing an additional fee for certain offenses relating to insurance crimes; providing for deposit of the fee into the Highway Safety Operating Trust Fund; amending s. 322.26, F.S.; providing an additional circumstance relating to insurance crimes for mandatory revocation of a person's driver's license; amending s. 400.9935, F.S.; requiring health care clinics to display signs containing certain information relating to insurance fraud; authorizing compliance inspections by the Division of Insurance Fraud; requiring clinics to allow inspection access; amending s. 440.105, F.S.; deleting the provision that a violation of a stop-work order is a misdemeanor of the first degree; amending s. 456.054, F.S.; revising the definition of the term

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"kickback" for criminal prosecution purposes; amending s. 624.15, F.S.; specifying violations of rules of the Department of Financial Services, Office of Insurance Regulation, or Financial Services Commission as misdemeanors; specifying a violation of emergency rules or orders as a felony of the third degree; providing penalties; providing for nonapplication to certain persons; amending s. 626.112, F.S.; providing a criminal penalty for knowingly transacting insurance without a license; amending s. 626.938, F.S.; revising provisions requiring a report and taxation of independently procured coverages; specifying nonauthorization of independent procurement of workers' compensation, life, or health insurance; amending s. 626.9891, F.S.; expanding authorization to impose administrative fines on insurers for failure to comply with certain anti-fraud plan or anti-fraud investigative unit description requirements; creating s. 626.9893, F.S.; authorizing the division to deposit certain revenues into the Insurance Regulatory Trust Fund; specifying accounting and uses of such revenues; providing for appropriation and use of such revenues; amending s. 627.736, F.S.; requiring insurers to provide certain persons with notice of the department's Anti-Fraud Reward Program and the criminal violations that may be reported in pursuit of a reward; amending s. 817.234, F.S.; revising provisions specifying material omission and insurance fraud; prohibiting scheming to create documentation of a motor vehicle crash that did not

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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occur; providing a criminal penalty; amending s. 817.2361, F.S.; providing that creating, marketing, or presenting fraudulent proof of motor vehicle insurance is a felony of the third degree; amending s. 817.50, F.S.; specifying nonapplication of provisions specifying evidence of intent to defraud to certain investigative actions taken by law enforcement officers; amending s. 817.505, F.S.; providing an additional patient brokering prohibition, to which penalties apply; revising a definition; amending s. 843.08, F.S.; providing a criminal penalty for falsely assuming or pretending to be an officer of the Department of Financial Services; amending s. 932.7055, F.S.; requiring certain proceeds seized by the division under the Florida Contraband Forfeiture Act to be deposited into certain trust funds; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 316.068, Florida Statutes, is amended to read:

316.068 Crash report forms.--

(2) Every crash report required to be made in writing must be made on the appropriate form approved by the department and must contain all the information required therein, including:

(a) The date, time, and location of the crash;

(b) A description of the vehicles involved;

(c) The names and addresses of the parties involved;

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80        (d) The names and addresses of all drivers and passengers  
81 in the vehicles involved;

82        (e) The names and addresses of witnesses;

83        (f) The name, badge number, and law enforcement agency of  
84 the officer investigating the crash; and

85        (g) The names of the insurance companies for the  
86 respective parties involved in the crash,

87  
88 unless not available. The absence of information in such written  
89 crash reports regarding the existence of passengers in the  
90 vehicles involved in the crash constitutes a rebuttable  
91 presumption that no such passengers were involved in the  
92 reported crash. Notwithstanding any other provisions of this  
93 section, a crash report produced electronically by a law  
94 enforcement officer must, at a minimum, contain the same  
95 information as is called for on those forms approved by the  
96 department.

97        Section 2. Subsection (8) of section 322.21, Florida  
98 Statutes, is amended to read:

99        322.21 License fees; procedure for handling and collecting  
100 fees.--

101        (8) Any person who applies for reinstatement following the  
102 suspension or revocation of the person's driver's license shall  
103 pay a service fee of \$35 following a suspension, and \$60  
104 following a revocation, which is in addition to the fee for a  
105 license. Any person who applies for reinstatement of a  
106 commercial driver's license following the disqualification of  
107 the person's privilege to operate a commercial motor vehicle

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108 shall pay a service fee of \$60, which is in addition to the fee  
109 for a license. The department shall collect all of these fees at  
110 the time of reinstatement. The department shall issue proper  
111 receipts for such fees and shall promptly transmit all funds  
112 received by it as follows:

113       (a) Of the \$35 fee received from a licensee for  
114 reinstatement following a suspension, the department shall  
115 deposit \$15 in the General Revenue Fund and \$20 in the Highway  
116 Safety Operating Trust Fund.

117       (b) Of the \$60 fee received from a licensee for  
118 reinstatement following a revocation or disqualification, the  
119 department shall deposit \$35 in the General Revenue Fund and \$25  
120 in the Highway Safety Operating Trust Fund.

121  
122 If the revocation or suspension of the driver's license was for  
123 a violation of s. 316.193, or for refusal to submit to a lawful  
124 breath, blood, or urine test, an additional fee of \$115 must be  
125 charged. However, only one \$115 fee may be collected from one  
126 person convicted of violations arising out of the same incident.  
127 The department shall collect the \$115 fee and deposit the fee  
128 into the Highway Safety Operating Trust Fund at the time of  
129 reinstatement of the person's driver's license, but the fee may  
130 not be collected if the suspension or revocation is overturned.

131 If the revocation or suspension of the driver's license was for  
132 a conviction for a violation of s. 817.234(8) or (9) or s.  
133 817.505, an additional fee of \$180 is imposed for each offense.  
134 The department shall collect and deposit the additional fee into



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135 the Highway Safety Operating Trust Fund at the time of  
136 reinstatement of the person's driver's license.

137 Section 3. Subsection (9) is added to section 322.26,  
138 Florida Statutes, to read:

139 322.26 Mandatory revocation of license by department.--The  
140 department shall forthwith revoke the license or driving  
141 privilege of any person upon receiving a record of such person's  
142 conviction of any of the following offenses:

143 (9) Conviction in any court having jurisdiction over  
144 offenses committed under s. 817.234(8) or (9) or s. 817.505.

145 Section 4. Subsection (13) is added to section 400.9935,  
146 Florida Statutes, to read:

147 400.9935 Clinic responsibilities.--

148 (13) The clinic shall display a sign in a conspicuous  
149 location within the clinic readily visible to all patients  
150 indicating that, pursuant to s. 626.9892, the Department of  
151 Financial Services may pay rewards of up to \$25,000 to persons  
152 providing information leading to the arrest and conviction of  
153 persons committing crimes investigated by the Division of  
154 Insurance Fraud arising from violations of s. 440.105, s.  
155 624.15, s. 626.9541, s. 626.989, or s. 817.234. An authorized  
156 employee of the Division of Insurance Fraud may make unannounced  
157 inspections of a clinic licensed under this part as necessary to  
158 determine whether the clinic is in compliance with this  
159 subsection. A licensed clinic shall allow full and complete  
160 access to the premises to such authorized employee of the  
161 division who makes an inspection to determine compliance with  
162 this subsection.

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Section 5. Paragraph (a) of subsection (2) of section 440.105, Florida Statutes, is amended to read:

440.105 Prohibited activities; reports; penalties; limitations.--

(2) Whoever violates any provision of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(a) It shall be unlawful for any employer to knowingly:

1. Coerce or attempt to coerce, as a precondition to employment or otherwise, an employee to obtain a certificate of election of exemption pursuant to s. 440.05.

2. Discharge or refuse to hire an employee or job applicant because the employee or applicant has filed a claim for benefits under this chapter.

3. Discharge, discipline, or take any other adverse personnel action against any employee for disclosing information to the department or any law enforcement agency relating to any violation or suspected violation of any of the provisions of this chapter or rules promulgated hereunder.

~~4. Violate a stop work order issued by the department pursuant to s. 440.107.~~

Section 6. Subsection (1) of section 456.054, Florida Statutes, is amended to read:

456.054 Kickbacks prohibited.--

(1) As used in this section, the term "kickback" means a remuneration or payment ~~back pursuant to an investment interest,~~  
~~compensation arrangement, or otherwise,~~ by or on behalf of a provider of health care services or items, ~~of a portion of the~~

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191 ~~charges for services rendered to any person a referring health~~  
192 ~~care provider~~ as an incentive or inducement to refer patients  
193 for past or future services or items, when the payment is not  
194 tax deductible as an ordinary and necessary expense.

195 Section 7. Section 624.15, Florida Statutes, is amended to  
196 read:

197 624.15 General penalty.--

198 (1) Each willful violation of this code or rule of the  
199 department, office, or commission as to which a greater penalty  
200 is not provided by another provision of this code or rule of the  
201 department, office, or commission or by other applicable laws of  
202 this state is a misdemeanor of the second degree and is, in  
203 addition to any prescribed applicable denial, suspension, or  
204 revocation of certificate of authority, license, or permit,  
205 punishable as provided in s. 775.082 or s. 775.083. Each  
206 instance of such violation shall be considered a separate  
207 offense.

208 (2) Each willful violation of an emergency rule or order  
209 of the department, office, or commission by a person who is not  
210 licensed, authorized, or eligible to engage in business in  
211 accordance with the Florida Insurance Code is a felony of the  
212 third degree, punishable as provided in s. 775.082, s. 775.083,  
213 or s. 775.084. Each instance of such violation is a separate  
214 offense. This subsection does not apply to licensees or  
215 affiliated parties of licensees.

216 Section 8. Subsection (9) is added to section 626.112,  
217 Florida Statutes, to read:

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218 626.112 License and appointment required; agents, customer  
219 representatives, adjusters, insurance agencies, service  
220 representatives, managing general agents.--

221 (9) Any person who knowingly transacts insurance or  
222 otherwise engages in insurance activities in this state without  
223 a license in violation of this section commits a felony of the  
224 third degree, punishable as provided in s. 775.082, s. 775.083,  
225 or s. 775.084.

226 Section 9. Subsections (1), (2), and (9) of section  
227 626.938, Florida Statutes, are amended to read:

228 626.938 Report and tax of independently procured  
229 coverages.--

230 (1) Every insured who in this state procures or causes to  
231 be procured or continues or renews insurance from another state  
232 or country with an unauthorized foreign or alien insurer  
233 legitimately licensed in that jurisdiction, or any self-insurer  
234 who in this state so procures or continues excess loss,  
235 catastrophe, or other insurance, upon a subject of insurance  
236 resident, located, or to be performed within this state, other  
237 than insurance procured through a surplus lines agent pursuant  
238 to the Surplus Lines Law of this state or exempted from tax  
239 under s. 626.932(4), shall, within 30 days after the date such  
240 insurance was so procured, continued, or renewed, file a report  
241 of the same with the Florida Surplus Lines Service Office in  
242 writing and upon forms designated by the Florida Surplus Lines  
243 Service Office and furnished to such an insured upon request, or  
244 in a computer readable format as determined by the Florida  
245 Surplus Lines Service Office. The report shall show the name and

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246 address of the insured or insureds, the name and address of the  
247 insurer, the subject of the insurance, a general description of  
248 the coverage, the amount of premium currently charged therefor,  
249 and such additional pertinent information as is reasonably  
250 requested by the Florida Surplus Lines Service Office.

251 (2) Any insurance on a risk located in this state in an  
252 unauthorized insurer legitimately licensed in another state or  
253 country procured through solicitations, negotiations, or an  
254 application, ~~in whole or in part~~ occurring or made outside  
255 ~~within or from within this state, or for which premiums in whole~~  
256 ~~or in part are remitted directly or indirectly from within this~~  
257 ~~state~~, shall be deemed to be insurance procured, continued, or  
258 renewed in this state within the intent of subsection (1).

259 (9) This section does not authorize independent  
260 procurement of workers' compensation insurance, ~~apply as to life~~  
261 insurance, or health insurance.

262 Section 10. Subsection (7) of section 626.9891, Florida  
263 Statutes, is amended to read:

264 626.9891 Insurer anti-fraud investigative units; reporting  
265 requirements; penalties for noncompliance.--

266 (7) If an insurer fails to timely submit a final  
267 acceptable anti-fraud plan or anti-fraud investigative unit  
268 description ~~otherwise fails to submit a plan~~, fails to implement  
269 the provisions of a plan or an anti-fraud investigative unit  
270 description, or otherwise refuses to comply with the provisions  
271 of this section, the department, office, or commission may:

272 (a) Impose an administrative fine of not more than \$2,000  
273 per day for such failure by an insurer to submit an acceptable

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274 anti-fraud plan or anti-fraud investigative unit description,  
275 until the department, office, or commission deems the insurer to  
276 be in compliance;

277 (b) Impose an administrative fine for failure by an ~~upon~~  
278 the insurer to implement or follow the provisions of an anti-  
279 fraud plan or anti-fraud investigative unit description ~~a fraud~~  
280 ~~detection and prevention plan that is deemed to be appropriate~~  
281 ~~by the department and that must be implemented by the insurer;~~  
282 or

283 (c) Impose the provisions of both paragraphs (a) and (b).  
284 Section 11. Section 626.9893, Florida Statutes, is created  
285 to read:

286 626.9893 Disposition of revenues; criminal or forfeiture  
287 proceedings.--

288 (1) The Division of Insurance Fraud of the Department of  
289 Financial Services may deposit revenues received as a result of  
290 criminal proceedings or forfeiture proceedings, other than  
291 revenues deposited into the Department of Financial Services'  
292 Federal Equitable Sharing Trust Fund under s. 17.43, into the  
293 Insurance Regulatory Trust Fund. Moneys deposited pursuant to  
294 this section shall be separately accounted for and shall be used  
295 solely for the division to carry out its duties and  
296 responsibilities.

297 (2) Moneys deposited into the Insurance Regulatory Trust  
298 Fund pursuant to this section shall be appropriated by the  
299 Legislature, pursuant to the provisions of chapter 216, for the  
300 sole purpose of enabling the division to carry out its duties  
301 and responsibilities.

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(3) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance of moneys deposited into the Insurance Regulatory Trust Fund pursuant to this section remaining at the end of any fiscal year shall remain in the trust fund at the end of that year and shall be available for carrying out the duties and responsibilities of the division.

Section 12. Subsection (14) is added to section 627.736, Florida Statutes, to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.--

(14) FRAUD ADVISORY NOTICE.--Upon receiving notice of a claim under this section, an insurer shall provide a notice to the insured or to a person for whom a claim for reimbursement for diagnosis or treatment of injuries has been filed, advising that:

(a) Pursuant to s. 626.9892, the Department of Financial Services may pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the Division of Insurance Fraud arising from violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234.

(b) Solicitation of a person injured in a motor vehicle crash for purposes of filing personal injury protection or tort claims could be a violation of s. 817.234, s. 817.505, or the rules regulating The Florida Bar and should be immediately reported to the Division of Insurance Fraud if such conduct has taken place.

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329           Section 13. Paragraph (a) of subsection (7) and subsection  
330 (9) of section 817.234, Florida Statutes, are amended to read:

331           817.234 False and fraudulent insurance claims.--

332           (7)(a) It shall constitute a material omission and  
333 insurance fraud, punishable as provided in subsection (11), for  
334 any service ~~physician or other~~ provider, other than a hospital,  
335 to engage in a general business practice of billing amounts as  
336 its usual and customary charge, if such provider has agreed with  
337 the insured ~~patient~~ or intends to waive deductibles or  
338 copayments, or does not for any other reason intend to collect  
339 the total amount of such charge. With respect to a determination  
340 as to whether a service ~~physician or other~~ provider has engaged  
341 in such general business practice, consideration shall be given  
342 to evidence of whether the physician or other provider made a  
343 good faith attempt to collect such deductible or copayment. This  
344 paragraph does not apply to physicians or other providers who  
345 waive deductibles or copayments or reduce their bills as part of  
346 a bodily injury settlement or verdict.

347           (9) A person may not organize, plan, or knowingly  
348 participate in an intentional motor vehicle crash or a scheme to  
349 create documentation of a motor vehicle crash that did not occur  
350 for the purpose of making motor vehicle tort claims or claims  
351 for personal injury protection benefits as required by s.  
352 627.736. Any person who violates this subsection commits a  
353 felony of the second degree, punishable as provided in s.  
354 775.082, s. 775.083, or s. 775.084. A person who is convicted of  
355 a violation of this subsection shall be sentenced to a minimum  
356 term of imprisonment of 2 years.

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357           Section 14.   Section 817.2361, Florida Statutes, is amended  
358 to read:

359           817.2361   False or fraudulent proof of motor vehicle  
360 insurance ~~card~~.--Any person who, with intent to deceive any  
361 other person, creates, markets, or presents a false or  
362 fraudulent proof of motor vehicle insurance ~~card~~ commits a  
363 felony of the third degree, punishable as provided in s.  
364 775.082, s. 775.083, or s. 775.084.

365           Section 15.   Subsection (2) of section 817.50, Florida  
366 Statutes, is amended to read:

367           817.50   Fraudulently obtaining goods, services, etc., from  
368 a health care provider.--

369           (2)   If any person gives to any health care provider in  
370 this state a false or fictitious name or a false or fictitious  
371 address or assigns to any health care provider the proceeds of  
372 any health maintenance contract or insurance contract, then  
373 knowing that such contract is no longer in force, is invalid, or  
374 is void for any reason, such action shall be prima facie  
375 evidence of the intent of such person to defraud the health care  
376 provider. However, this subsection does not apply to  
377 investigative actions taken by law enforcement officers for law  
378 enforcement purposes in the course of their official duties.

379           Section 16.   Subsection (1) and paragraph (a) of subsection  
380 (2) of section 817.505, Florida Statutes, are amended to read:

381           817.505   Patient brokering prohibited; exceptions;  
382 penalties.--

383           (1)   It is unlawful for any person, including any health  
384 care provider or health care facility, to:

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(a) Offer or pay any commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to induce the referral of patients or patronage to or from a health care provider or health care facility;

(b) Solicit or receive any commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for referring patients or patronage to or from a health care provider or health care facility; ~~or~~

(c) Solicit or receive any commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for the acceptance or acknowledgement of treatment from a health care provider or health care facility; or

(d) ~~(e)~~ Aid, abet, advise, or otherwise participate in the conduct prohibited under paragraph (a), ~~or~~ paragraph (b), or paragraph (c).

(2) For the purposes of this section, the term:

(a) "Health care provider or health care facility" means any person or entity licensed, certified, or registered; required to be licensed, certified, or registered; or lawfully exempt from being required to be licensed, certified, or registered with the Agency for Health Care Administration or the Department of Health; any person or entity that has contracted with the Agency for Health Care Administration to provide goods or services to Medicaid recipients as provided under s. 409.907; a county health department established under part I of chapter

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413 154; any community service provider contracting with the  
414 Department of Children and Family Services to furnish alcohol,  
415 drug abuse, or mental health services under part IV of chapter  
416 394; any substance abuse service provider licensed under chapter  
417 397; or any federally supported primary care program such as a  
418 migrant or community health center authorized under ss. 329 and  
419 330 of the United States Public Health Services Act.

420 Section 17. Section 843.08, Florida Statutes, is amended  
421 to read:

422 843.08 Falsely personating officer, etc.--A person who  
423 falsely assumes or pretends to be a sheriff, officer of the  
424 Florida Highway Patrol, officer of the Fish and Wildlife  
425 Conservation Commission, officer of the Department of  
426 Environmental Protection, officer of the Department of  
427 Transportation, officer of the Department of Financial Services,  
428 officer of the Department of Corrections, correctional probation  
429 officer, deputy sheriff, state attorney or assistant state  
430 attorney, statewide prosecutor or assistant statewide  
431 prosecutor, state attorney investigator, coroner, police  
432 officer, lottery special agent or lottery investigator, beverage  
433 enforcement agent, or watchman, or any member of the Parole  
434 Commission and any administrative aide or supervisor employed by  
435 the commission, or any personnel or representative of the  
436 Department of Law Enforcement, and takes upon himself or herself  
437 to act as such, or to require any other person to aid or assist  
438 him or her in a matter pertaining to the duty of any such  
439 officer, commits a felony of the third degree, punishable as  
440 provided in s. 775.082, s. 775.083, or s. 775.084; however, a

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441 person who falsely personates any such officer during the course  
442 of the commission of a felony commits a felony of the second  
443 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
444 775.084; except that if the commission of the felony results in  
445 the death or personal injury of another human being, the person  
446 commits a felony of the first degree, punishable as provided in  
447 s. 775.082, s. 775.083, or s. 775.084.

448 Section 18. Paragraph (n) is added to subsection (6) of  
449 section 932.7055, Florida Statutes, to read:

450 932.7055 Disposition of liens and forfeited property.--

451 (6) If the seizing agency is a state agency, all remaining  
452 proceeds shall be deposited into the General Revenue Fund.

453 However, if the seizing agency is:

454 (n) The Division of Insurance Fraud of the Department of  
455 Financial Services, the proceeds accrued pursuant to the  
456 provisions of the Florida Contraband Forfeiture Act shall be  
457 deposited into the Insurance Regulatory Trust Fund as provided  
458 in s. 626.9893 or into the Department of Financial Services'  
459 Federal Equitable Sharing Trust Fund as provided in s. 17.43, as  
460 applicable.

461 Section 19. If any provision of this act or the  
462 application thereof to any person or circumstance is held  
463 invalid, the invalidity does not affect other provisions or  
464 applications of the act which can be given effect without the  
465 invalid provision or application, and, to this end, the  
466 provisions of this act are declared severable.

467 Section 20. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 561 CS

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Fiscal Council

Representative Rivera offered the following:

**Amendment (with directory and title amendments)**

Between lines 183 and 184 insert:

(4) Whoever violates any provision of this subsection commits insurance fraud, punishable as provided in paragraph (f).

(a) It shall be unlawful for any employer to knowingly:

1. Present or cause to be presented any false, fraudulent, or misleading oral or written statement to any person as evidence of compliance with s. 440.38.

2. Make a deduction from the pay of any employee entitled to the benefits of this chapter for the purpose of requiring the employee to pay any portion of premium paid by the employer to a carrier or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation or medical services and supplies as required by this chapter.

3. Fail to secure worker's payment of compensation insurance coverage if required to do so by this chapter.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

===== D I R E C T O R Y   A M E N D M E N T =====

Remove lines 163 and 164 and insert:

Section 5. Paragraph (a) of subsection (2) and paragraph (a) of subsection (4) of section 440.105, Florida Statutes, are amended to read:

===== T I T L E   A M E N D M E N T =====

Remove line 22 and insert:

order is a misdemeanor of the first degree; clarifying that the failure to secure workers compensation insurance coverage is prohibited; amending s.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 561 CS

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Fiscal Council

Representative Rivera offered the following:

**Amendment (with title amendment)**

Between lines 328 and 329 insert:

Section 13. Subsection (1) of section 627.7401, Florida Statutes, is amended to read:

(1) The commission, by rule, shall adopt a form for the notification of insureds of their right to receive personal injury protection benefits under the Florida Motor Vehicle No-Fault Law. Such notice shall include:

(a) A description of the benefits provided by personal injury protection, including, but not limited to, the specific types of services for which medical benefits are paid, disability benefits, death benefits, significant exclusions from and limitations on personal injury protection benefits, when payments are due, how benefits are coordinated with other insurance benefits that the insured may have, penalties and interest that may be imposed on insurers for failure to make timely payments of benefits, and rights of parties regarding disputes as to benefits.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

(b) An advisory informing the insureds that:

1. Pursuant to s. 626.9892, the Department of Financial Services may pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the Division of Insurance Fraud arising from violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.981, or s. 817.234.

2. Pursuant to s. 627.736(6)(e)(1), if the insured notifies the insurer of a billing error, the insured may be entitled to a certain percentage of a reduction in the amount paid by the insured's motor vehicle insurer.

(c) A notice that solicitation of a person injured in a motor vehicle crash for purposes of filing personal injury protection or tort claims could be a violation of s. 817.234, s. 817.505, or the rules regulation the Florida Bar and should be immediately reported to the Division of Insurance Fraud if such conduct has taken place.

===== T I T L E   A M E N D M E N T =====

Remove line 49 and insert:

627.7401, F.S.; requiring additional notification of insured's rights; amending s. 817.234, F.S.; revising provisions specifying material

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **561 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Fiscal Council

Representative Bogdanoff offered the following:

**Amendment (with title amendment)**

between lines 215 and 216 insert:

Section 8. Section 624.155, Florida Statutes, is amended to read:

624.155 Civil remedy.--

(1) Any person may bring a civil action against an insurer when such person is damaged:

(a) By a violation of any of the following provisions by the insurer:

1. Section 626.9541(1)(i), (o), or (x);

2. Section 626.9551;

3. Section 626.9705;

4. Section 626.9706;

5. Section 626.9707; or

6. Section 627.7283.

(b) By the commission of any of the following acts by the insurer:

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

21 1. Not attempting in good faith to settle claims when,  
22 under all the circumstances, it could and should have done so,  
23 had it acted fairly and honestly toward its insured and with due  
24 regard for her or his interests;

25 2. Making claims payments to insureds or beneficiaries not  
26 accompanied by a statement setting forth the coverage under  
27 which payments are being made; or

28 3. Except as to liability coverages, failing to promptly  
29 settle claims, when the obligation to settle a claim has become  
30 reasonably clear, under one portion of the insurance policy  
31 coverage in order to influence settlements under other portions  
32 of the insurance policy coverage.

33  
34 Notwithstanding the provisions of the above to the contrary, a  
35 person pursuing a remedy under this section need not prove that  
36 such act was committed or performed with such frequency as to  
37 indicate a general business practice.

38 (2) Any party may bring a civil action against an  
39 unauthorized insurer if such party is damaged by a violation of  
40 s. 624.401 by the unauthorized insurer.

41 (3)(a) As a condition precedent to bringing an action  
42 under this section, the department and the authorized insurer  
43 must have been given 60 days' written notice of the violation.  
44 If the department returns a notice for lack of specificity, the  
45 60-day time period shall not begin until a proper notice is  
46 filed.

47 (b) The notice shall be on a form provided by the  
48 department and shall state with specificity the following  
49 information, and such other information as the department may  
50 require:

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

51       1. The statutory provision, including the specific  
52 language of the statute, which the authorized insurer allegedly  
53 violated.

54       2. The facts and circumstances giving rise to the  
55 violation.

56       3. The name of any individual involved in the violation.

57       4. Reference to specific policy language that is relevant  
58 to the violation, if any. If the person bringing the civil  
59 action is a third party claimant, she or he shall not be  
60 required to reference the specific policy language if the  
61 authorized insurer has not provided a copy of the policy to the  
62 third party claimant pursuant to written request.

63       5. A statement that the notice is given in order to  
64 perfect the right to pursue the civil remedy authorized by this  
65 section.

66       (c) Within 20 days of receipt of the notice, the  
67 department may return any notice that does not provide the  
68 specific information required by this section, and the  
69 department shall indicate the specific deficiencies contained in  
70 the notice. A determination by the department to return a notice  
71 for lack of specificity shall be exempt from the requirements of  
72 chapter 120.

73       (d) No action shall lie if, within 60 days after filing  
74 notice, the damages are paid or the circumstances giving rise to  
75 the violation are corrected.

76       (e) The authorized insurer that is the recipient of a  
77 notice filed pursuant to this section shall report to the  
78 department on the disposition of the alleged violation.

79       (f) The applicable statute of limitations for an action  
80 under this section shall be tolled for a period of 65 days by

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

the mailing of the notice required by this subsection or the mailing of a subsequent notice required by this subsection.

(4) Upon adverse adjudication at trial or upon appeal, the authorized insurer shall be liable for damages, together with court costs and reasonable attorney's fees incurred by the plaintiff.

(5) No punitive damages shall be awarded under this section unless the acts giving rise to the violation occur with such frequency as to indicate a general business practice and these acts are:

(a) Willful, wanton, and malicious;

(b) In reckless disregard for the rights of any insured;  
or

(c) In reckless disregard for the rights of a beneficiary under a life insurance contract.

Any person who pursues a claim under this subsection shall post in advance the costs of discovery. Such costs shall be awarded to the authorized insurer if no punitive damages are awarded to the plaintiff.

(6) This section shall not be construed to authorize a class action suit against an authorized insurer or a civil action against the commission, the office, or the department or any of their employees, or to create a cause of action when an authorized health insurer refuses to pay a claim for reimbursement on the ground that the charge for a service was unreasonably high or that the service provided was not medically necessary.

(7) In the absence of expressed language to the contrary, this section shall not be construed to authorize a civil action

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

111 or create a cause of action against an authorized insurer or its  
112 employees who, in good faith, release information about an  
113 insured or an insurance policy to a law enforcement agency in  
114 furtherance of an investigation of a criminal or fraudulent act  
115 relating to a motor vehicle theft or a motor vehicle insurance  
116 claim.

117 (8) The civil remedy specified in this section does not  
118 preempt any other remedy or cause of action provided for  
119 pursuant to any other statute or pursuant to the common law of  
120 this state. Any person may obtain a judgment under either the  
121 common-law remedy of bad faith or this statutory remedy, but  
122 shall not be entitled to a judgment under both remedies. This  
123 section shall not be construed to create a common-law cause of  
124 action. The damages recoverable pursuant to this section shall  
125 include those damages which are a reasonably foreseeable result  
126 of a specified violation of this section by the authorized  
127 insurer and may include an award or judgment in an amount that  
128 exceeds the policy limits.

129 ~~(9) A surety issuing a payment or performance bond on the~~  
130 ~~construction or maintenance of a building or roadway project is~~  
131 ~~not an insurer for purposes of subsection (1).~~

132 ===== T I T L E A M E N D M E N T =====

133 Remove line 31 and insert:

134 persons; amending s. 624.155, F.S.; repealing the provision that  
135 a surety issuing a payment or performance bond on the  
136 construction or maintenance of a building or roadway project is  
137 not an insurer for purposes of bringing action against an  
138 insurer; amending s. 626.112, F.S.; providing a criminal

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## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 581                      Public Benefits  
**SPONSOR(S):** Cretul and others  
**TIED BILLS:**                              **IDEN./SIM. BILLS:** SB 1796

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Governmental Operations Committee</u>	<u>6 Y, 0 N</u>	<u>Brown</u>	<u>Williamson</u>
2) <u>Fiscal Council</u>	<u></u>	<u>Dobbs</u> <i>MD</i>	<u>Kelly</u> <i>CK</i>
3) <u>State Administration Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

The bill prohibits the use of state funds, under the state employee benefits program, for any program providing benefits for any individuals other than enrollees and the spouses and dependent children of enrollees. The bill applies this prohibition to employee benefits programs established by the community college board of trustees and by the state university board of trustees.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government** – The bill creates a prohibition on certain state insurance premium contributions from state employers.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background: State Employee Health Care

Chapter 110, F.S., provides the statutory authority for the implementation of health insurance and prescription drug coverage for all enrollees. Enrollees include all state officers and employees, retired state officers and employees, surviving spouses of deceased state officers and employees, as well as all state university officers and employees, retired state university officers and employees, and surviving spouses of deceased state university officers and employees.<sup>1</sup>

Enrollees may choose between a self-insured indemnity plan called a preferred provider organization (PPO) or an approved health management organization (HMO). Sections 110.123 and 110.12315, F.S., describe the coverage available and specify the minimum complement of benefits each approved provider must offer. An enrollee may select health insurance coverage from a number of approved provider organizations. The state-sponsored preferred provider organization provides universal access in all of Florida's 67 counties. As an alternative, the enrollee may choose to enroll in one of several managed care plans offered by participating HMOs pre-approved by the Division of State Group Insurance in the Department of Management Services. In counties not served by an HMO, this option is unavailable to enrollees.

The Department of Management Services has authority to establish a comprehensive package of insurance benefits that may include supplemental insurance products. Supplemental insurance is designed to provide coverage for certain treatments that are not included in a health insurance policy, or to provide additional benefits to those already offered in a health insurance policy. The State currently offers active employees the opportunity to purchase from private insurers various supplemental insurance plans and to have the premium payments for such plans deducted from the employee's pay on a pre-tax basis. Unlike the State sponsored PPO or HMO plans, the State does not contribute to any portion of the premium for supplemental insurance. Some of the various supplemental insurance products available to enrollees include vision insurance, dental insurance, supplemental hospitalization insurance, cancer and cancer/intensive care insurance, and accident and accident disability insurance.

##### Effect of Proposed Legislation

The bill addresses the state's participation in funding benefits programs under the state's insurance programs. The bill prohibits the use of state funds when a benefit is provided "for any individuals other than enrollees and the spouses and dependent children of enrollees." According to the Division of State Group Insurance, the bill "has no impact on Department of Management Services or the State Group Insurance Program as currently administered by the Division of State Group Insurance in accordance with *Florida Statutes* and *Florida Administrative Code*."<sup>2</sup>

The bill applies the same restrictions on the use of state funds for employee benefits programs established by the community college board of trustees and by the state university board of trustees.

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<sup>1</sup> Sec. 110.123(2)(b), F.S.

<sup>2</sup> Department of Management Services, 2006 Substantive Bill Analysis HB 581, February 7, 2006.



There are existing employee benefits programs at some community colleges and state universities which will be subject to this restriction. It is unknown at this time how many of these programs are using state funds.

**C. SECTION DIRECTORY:**

Section 1 amends s. 110.123, F.S., to prohibit the use of state funds to provide a benefit for anyone other than an enrollee or the spouse or dependent of an enrollee.

Section 2 amends s. 1001.64, F.S., to prohibit the community college board of trustees from the use of state funds to provide a benefit for anyone other than an enrollee or the spouse or dependent of an enrollee.

Section 3 amends s. 1001.74, F.S., to prohibit the state university board of trustees from the use of state funds to provide a benefit for anyone other than an enrollee or the spouse or dependent of an enrollee.

Section 4 provides an effective date of July 1, 2006.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

The bill does not create, modify, amend, or eliminate a state revenue source.

**2. Expenditures:**

The bill does not create, modify, amend, or eliminate a state expenditure. The bill reduces potential expenditures related to employee benefits.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

The bill does not create, modify, amend, or eliminate a local revenue source.

**2. Expenditures:**

The bill reduces potential expenditures related to employee benefits. It is unknown whether or not any local governments currently maintain benefits programs that would be impacted by this legislation.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable because this bill does not require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

None.

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1 A bill to be entitled

2 An act relating to public benefits; amending s. 110.123,  
3 F.S., relating to the state group insurance program;  
4 prohibiting funding for benefits granted under the program  
5 from being used to provide benefits for any individuals  
6 other than enrollees and the spouses and dependent  
7 children of enrollees; amending s. 1001.64, F.S.;  
8 prohibiting community college boards of trustees from  
9 establishing benefits programs that use state funding to  
10 provide benefits for any individuals other than enrollees  
11 and the spouses and dependent children of enrollees;  
12 amending s. 1001.74, F.S.; prohibiting university boards  
13 of trustees from establishing benefits programs that use  
14 state funding to provide benefits for any individuals  
15 other than enrollees and the spouses and dependent  
16 children of enrollees; providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20 Section 1. Subsection (13) is added to section 110.123,  
21 Florida Statutes, to read:

22 110.123 State group insurance program.--

23 (13) CERTAIN BENEFITS PROHIBITED.--No state funding for  
24 benefits granted under this section shall be used to provide  
25 benefits for any individuals other than enrollees and the  
26 spouses and dependent children of enrollees.

27 Section 2. Subsection (18) of section 1001.64, Florida  
28 Statutes, is amended to read:

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1001.64 Community college boards of trustees; powers and duties.--

(18) Each board of trustees shall establish the personnel program for all employees of the community college, including the president, pursuant to the provisions of chapter 1012 and rules and guidelines of the State Board of Education, including: compensation and other conditions of employment; recruitment and selection; nonreappointment; standards for performance and conduct; evaluation; benefits and hours of work; leave policies; recognition; inventions and work products; travel; learning opportunities; exchange programs; academic freedom and responsibility; promotion; assignment; demotion; transfer; ethical obligations and conflict of interest; restrictive covenants; disciplinary actions; complaints; appeals and grievance procedures; and separation and termination from employment. The boards of trustees are prohibited from establishing benefits programs that use state funding to provide benefits for any individuals other than enrollees and the spouses and dependent children of enrollees.

Section 3. Subsection (19) of section 1001.74, Florida Statutes, is amended to read:

1001.74 Powers and duties of university boards of trustees.--

(19) Each board of trustees shall establish the personnel program for all employees of the university, including the president, pursuant to the provisions of chapter 1012 and, in accordance with rules and guidelines of the State Board of Education, including: compensation and other conditions of

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57 | employment, recruitment and selection, nonreappointment,  
58 | standards for performance and conduct, evaluation, benefits and  
59 | hours of work, leave policies, recognition and awards,  
60 | inventions and works, travel, learning opportunities, exchange  
61 | programs, academic freedom and responsibility, promotion,  
62 | assignment, demotion, transfer, tenure and permanent status,  
63 | ethical obligations and conflicts of interest, restrictive  
64 | covenants, disciplinary actions, complaints, appeals and  
65 | grievance procedures, and separation and termination from  
66 | employment. The boards of trustees are prohibited from  
67 | establishing benefits programs that use state funding to provide  
68 | benefits for any individuals other than enrollees and the  
69 | spouses and dependent children of enrollees. The Department of  
70 | Management Services shall retain authority over state university  
71 | employees for programs established in ss. 110.123, 110.161,  
72 | 110.1232, 110.1234, and 110.1238 and in chapters 121, 122, and  
73 | 238.

74 |       Section 4.   This act shall take effect July 1, 2006.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 691 CS  
**SPONSOR(S):** Negron and others  
**TIED BILLS:**

Tax on Sales, Use, and Other Transactions

**IDEN./SIM. BILLS:** SB 1404

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	7 Y, 2 N, w/CS	Levin	Diez-Arguelles
2) Fiscal Council		Levin <i>J. Negron</i>	Kelly <i>AK</i>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

The bill provides that no sales tax will be collected on the first \$5,000 of the sales price of any item of tangible personal property or admission purchased by an individual for personal consumption during the seven-day period of July 31, 2006 through August 6, 2006.

The tax-free period does not apply to:

- Purchases made in the course of conducting business, as defined in s. 212.02(2), Florida Statutes;
- Purchases by an individual to be used in business;
- Rental car surcharges paid pursuant to s. 212.0606, Florida Statutes;
- Transient rentals tax paid pursuant to s. 212.03, Florida Statutes;
- Tax on rental or license fees for the use of real property paid pursuant to s. 212.031, Florida Statutes;
- Tax on the lease or rental of any tangible personal property;
- Sales from vending machines taxed pursuant to s. 212.0515, Florida Statutes;
- Dues and fees paid to private clubs and membership clubs described in s. 212.02(1), Florida Statutes;
- Sales of admissions described in s. 212.02 (1), Florida Statutes, which are valid for any day prior to July 31, 2006 or after August 6, 2006;
- Occasional sales of aircrafts, boats, mobile homes, or motor vehicles as described in s. 212.05 (1)(a) 1. b., Florida Statutes, when title is endorsed and ownership is transferred at a time other than the tax holiday;
- Service warranties taxed pursuant to s. 212.0506, Florida Statutes;
- Charges for the use of coin operated amusement machines, pursuant to s. 212.05(1)(h), Florida Statutes; and
- Any fees or surcharges imposed on tangible personal property administered by the Department of Revenue.

The preliminary estimate of the fiscal impact of the bill is approximately negative \$350 million in state revenues and negative \$88 million in local revenues during FY 2006-2007.

The estimated reduction in Local Option Sales Tax by this bill is approximately a negative \$38 million. The bill therefore reduces the authority of cities and counties to raise revenues in the aggregate and is a mandate to local governments. Therefore, the bill may require a two-thirds vote of the membership of each house of the Legislature.

The bill provides an appropriation to the Department of Revenue of \$400,000 from the General Revenue Fund in FY 2006-2007 to administer the bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0691b.FC.doc  
**DATE:** 3/31/2006

The bill is effective upon becoming law.

## **FULL ANALYSIS**

### **I. SUBSTANTIVE ANALYSIS**

#### **A. HOUSE PRINCIPLES ANALYSIS:**

Ensures lower taxes – The bill eliminates sales tax on tangible personal property and admissions during the period of the sales tax holiday, which will be seven days beginning July 31, 2006.

#### **B. EFFECT OF PROPOSED CHANGES:**

Chapter 212, Florida Statutes, imposes sales tax on the retail sale, storage or use of tangible personal property and admissions purchased by individuals for personal consumption. These items will be exempt from sales tax for the seven day period of July 31, 2006 through August 6, 2006.

#### History of Sales Tax Holidays

Since 1998, the Legislature has enacted a number of tax relief acts which provided that various items of apparel and back to school supplies would not be subject to sales tax during a nine-day period. The tax holidays took place sometime between late July and mid-August. Back to school sales tax holidays have occurred in 1998, 1999, 2000, 2001, 2004 and 2005. In 2005, the Florida Legislature also enacted a separate sales and use tax holiday for certain enumerated "hurricane" supplies. That holiday occurred from June 1, 2005 through June 12, 2005.

#### HB 691 CS

The bill provides that no sales tax will be collected on the first \$5,000 of the sales price of any item of tangible personal property or admission purchased by an individual for personal consumption during the seven-day period of July 31, 2006 through August 6, 2006.

The tax-free period does not apply to:

- Purchases made in the course of conducting business, as defined in s. 212.02(2), Florida Statutes;
- Purchases by an individual to be used in business;
- Rental car surcharges paid pursuant to s. 212.0606, Florida Statutes;
- Transient rentals tax paid pursuant to s. 212.03, Florida Statutes;
- Tax on rental or license fees for the use of real property paid pursuant to s. 212.031, Florida Statutes;
- Tax on the lease or rental of any tangible personal property;
- Sales from vending machines taxed pursuant to s. 212.0515, Florida Statutes;
- Dues and fees paid to private clubs and membership clubs described in s. 212.02(1), Florida Statutes;
- Sales of admissions described in s. 212.02 (1), Florida Statutes, which are valid for any day prior to July 31, 2006 or after August 6, 2006;
- Occasional sales of aircrafts, boats, mobile homes, or motor vehicles as described in s. 212.05 (1)(a) 1. b., Florida Statutes, when title is endorsed and ownership is transferred other than during the tax holiday;
- Service warranties taxed pursuant to s. 212.0506, Florida Statutes;
- Charges for the use of coin operated amusement machines, pursuant to s. 212.05(1)(h), Florida Statutes; and
- Any fees or surcharges imposed on tangible personal property administered by the Department of Revenue.



The bill grants the Department of Revenue authority to promulgate rules to implement the provisions of the bill. The bill provides an appropriation of \$400,000 from the General Revenue Fund to the Department of Revenue to administer the sales tax holiday.

**C. SECTION DIRECTORY:**

Section 1. Creates a sales tax holiday on the first \$5,000 of the sales price of all tangible personal property and admissions purchased for personal consumption during the seven day period beginning July 31, 2006 and ending August 6, 2006. The holiday does not include purchases made by businesses or by individuals to be used in a business. The Department of Revenue is given broad rulemaking authority to administer the holiday. This section includes an appropriation of \$400,000 from the General Revenue Fund to the Department of Revenue to administer the bill.

Section 2. Provides an effective date of becoming law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

The bill is estimated to reduce state revenues by approximately \$350 million. The Revenue Estimating Conference has not provided an official estimate.

**2. Expenditures:**

The bill provides an appropriation from the General Revenue Fund to the Department of Revenue of \$400,000 to administer the sales tax holiday.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

The bill is estimated to reduce local revenues by approximately \$88 million, of which \$38 million is Local Options Sales Tax. The Revenue Estimating Conference has not provided an official estimate.

**2. Expenditures:**

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Retailers may experience additional sales as a result of the holiday.

**D. FISCAL COMMENTS:**

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The estimated reduction in Local Option Sales tax by this bill is approximately \$38 million. The bill therefore reduces the authority of cities and counties to raise revenues in the aggregate and is a mandate to local governments. Therefore the bill may require a two-thirds vote of the membership of each house of the Legislature.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

The bill specifically authorizes the Department of Revenue to adopt rules to implement and administer the tax free period.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

A strike-all amendment was adopted by the Finance and Tax Committee on March 24, 2006. The amendment eliminated the requirement of a Purchaser's Certificate for items over \$1,000, and included discretionary sales taxes in the tax holiday. The rental of real and tangible personal property was specifically excluded from the tax holiday. The tax treatment of admissions, occasional sales of motor vehicles and boats, and fees and surcharges imposed on tangible personal property and administered by the Department of Revenue was clarified.

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CS

CHAMBER ACTION

The Finance & Tax Committee recommends the following:

**Council/Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to the tax on sales, use, and other transactions; providing for noncollection of the tax on a portion of the sales price of certain transactions during a certain period of time; providing exceptions; authorizing the Department of Revenue to adopt rules; providing criteria; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) Except as otherwise provided in this section, during the period from 12:01 a.m., July 31, 2006, through midnight, August 6, 2006, the tax levied under the provisions of chapter 212, Florida Statutes, shall not be collected on the first \$5,000 of the sales price of, or consideration paid for, any item of tangible personal property, or admission occurring during the tax-free period, purchased during the tax-free period by an individual for personal

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consumption. This subsection does not apply to purchases made in the course of conducting business as defined in s. 212.02(2), Florida Statutes, or by an individual to be used in a business.

(2) The provisions of subsection (1) do not apply to:

(a) Rental car surcharges paid pursuant to s. 212.0606, Florida Statutes.

(b) Transient rentals tax paid pursuant to s. 212.03, Florida Statutes.

(c) Tax on rental or license fee for use of real property paid pursuant to s. 212.031, Florida Statutes.

(d) Tax on the lease or rental of any tangible personal property.

(e) Sales from vending machines taxed pursuant to s. 212.0515, Florida Statutes.

(f) All dues and fees paid to private clubs and membership clubs, as described in s. 212.02(1), Florida Statutes.

(g) Sales of annual admissions, season admissions, or any admission as described in s. 212.02(1), Florida Statutes, which is valid for any day prior to July 31, 2006, or after August 6, 2006.

(h) Occasional or isolated sales of aircrafts, boats, mobile homes, or motor vehicles as described in s. 212.05(1)(a)1.b., Florida Statutes, when the title of the aircraft, boat, mobile home, or motor vehicle is endorsed and ownership is transferred prior to or after the conclusion of the tax holiday.

(i) Service warranties taxed pursuant to s. 212.0506, Florida Statutes.

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52        (j) Charges for the use of coin-operated amusement  
53        machines under s. 212.05(1)(h), Florida Statutes.

54        (k) Any fees imposed on items of tangible personal  
55        property administered by the Department of Revenue under chapter  
56        212, Florida Statutes, including, but not limited to, the lead-  
57        acid battery fee and the waste tire fee. However, the provisions  
58        of subsection (1) do apply to the tax applicable to the fees.

59        (3) Notwithstanding chapter 120, Florida Statutes, the  
60        Department of Revenue may adopt rules to implement and  
61        administer this section. It is the intent of the Legislature  
62        that these rules apply the definitions in chapter 212, Florida  
63        Statutes, and provide a broad sales tax exemption for items  
64        actually purchased during the tax holiday, including, but not  
65        limited to, mail order purchases, layaways, rain checks, and  
66        special orders for which payment in full is made during the tax-  
67        free period. The department is specifically authorized to  
68        develop and adopt rules applying to and including, but not  
69        limited to, multiple items on one invoice, bundled transactions,  
70        coupons and discounts, exchanges, rebates, splitting of items  
71        normally sold together, returns, and erroneously collected  
72        taxes.

73        (4) The sum of \$400,000 is appropriated from the General  
74        Revenue Fund to the Department of Revenue for purposes of  
75        administering this section.

76        Section 2. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **691 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Fiscal Council  
Representative(s) Negron offered the following:

**Amendment (with title amendments)**

Between line(s) 75 and 76 and insert:

(5) The sum of \$38,000,000 is appropriated from the  
General Revenue Fund to the Department of Revenue to be  
deposited into the account in the Discretionary Sales Surtax  
Clearing Trust Fund created by Section 212.054(4)c, Florida  
Statutes, for distribution to local governments in accordance  
with the distribution formula set forth in that section.

===== T I T L E A M E N D M E N T =====

Remove line 11 and insert:

providing criteria; providing appropriations; providing

000000





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1489 W/ CS  
**SPONSOR(S):** Waters and others  
**TIED BILLS:**

State's Aerospace Industry  
**IDEN./SIM. BILLS:** SB 2580

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Spaceport &amp; Technology Committee</u>	<u>6 Y, 1 N, w/CS</u>	<u>Whittier</u>	<u>Saliba</u>
2) <u>Fiscal Council</u>	<u></u>	<u>Gordon</u> 	<u>Kelly</u> 
3) <u>State Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

On June 10, 2005, Governor Bush created the Commission on the Future of Space and Aeronautics in Florida (commission) by Executive Order No. 05-120. The commission was created to "assess and make recommendations on how to strengthen Florida's role as a leader in space and aeronautics and to maximize the economic development and job creation opportunities throughout the state." The commission released their final report in January 2006 with 18 recommendations to improve the future of the aerospace industry in Florida. HB 1489 w/ CS contains some of these recommendations.

The bill repeals the Florida Space Research Institute (FSRI) and the Florida Aerospace Finance Corporation (FAFC), as well as their boards. The Florida Space Authority (FSA) is designated as Space Florida. Several responsibilities of the FSRI and FAFC are retained as those of Space Florida and others are eliminated and many existing FSA powers and duties are revised. The bill repeals the Spaceport Management Council.

The bill creates Space Florida as a public corporation, body politic, and subdivision of the state. Space Florida is directed to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development and education programs. It is also directed to coordinate with the appropriate federal, state, local entities, and other interested parties. It directs Space Florida to create a marketing campaign.

Space Florida is directed to do the following: 1) Seek federal support to upgrade the infrastructure and technologies at current state and federal launch sites; 2) Promote and facilitate launch activity by assisting commercial launch operators with completing documentation and authorization requirements from federal agencies; and 3) Pursue the development of additional commercial spaceports in partnership with local and federal government and private entities.

The bill directs the Department of Education to establish the Florida Center for Mathematics and Science Education Research at a state university and instructs Space Florida to collaborate with universities and other public or private entities to develop a proposal for a Center of Excellence for Aerospace that will foster and promote the research necessary to develop commercially promising, advanced, and innovative science and technology and transfer those discoveries to the commercial sector.

The bill increases the sales and use tax exemptions on machinery and equipment for space and defense firms from 25% to a full exemption. This is estimated to have an annualized negative impact of \$2.8 million on the state General Revenue in FY 2006. The bill directs that sales tax collected from dealers at Cape Canaveral Air Force Station and the Kennedy Space Center be distributed to Space Florida to be used for business development projects and education initiatives. This is estimated to have a negative impact of \$4 million on the state General Revenue in FY 2006-07 and \$4.2 million in FY 2007-08.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill designates the Florida Space Authority as Space Florida and repeals the other two statutory space entities, Florida Space Research Institute and the Florida Aerospace Finance Corporation, as well as their boards. Some responsibilities of the latter two entities are retained as those of Space Florida and others are eliminated.

Ensure Lower Taxes: The bill increases the sales and use tax exemptions on machinery and equipment for space and defense firms from 25% to a full exemption.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Governor's Commission on the Future of Space and Aeronautics in Florida

On June 10, 2005, Governor Bush created the Commission on the Future of Space and Aeronautics in Florida (commission) by Executive Order No. 05-120.<sup>1</sup> The commission was created to "assess and make recommendations on how to strengthen Florida's role as a leader in space and aeronautics to maximize the economic development and job creation opportunities throughout the state." The commission was composed of 16 space industry specialists, economists, and state personnel who met eight times to fulfill this directive. The commission released their final report in January 2006. The recommendations were as follows:

##### *Talent*

- 1) Integrate space and aeronautics industry needs into the State's cluster-based workforce development programs.
- 2) Ensure that space industry talent currently involved in the Space Shuttle program is retained after 2010.
- 3) Establish a Center for Mathematics and Science Education Research to enhance K-12 mathematics and science instruction quality.
- 4) Improve K-12 mathematics and science teacher availability through a greater emphasis on teacher recruitment.
- 5) Expand enrollment in, completions of, and retention of graduates from post-secondary degree programs in mathematics, science, and engineering, with emphasis on aerospace fields.
- 6) Provide hands-on opportunities for students to experience and learn about the aerospace industry.
- 7) Increase general awareness of aerospace activities.
- 8) Create a center of excellence with focus on space and aeronautics research and technology.

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<sup>1</sup> Available at [http://www.myflorida.com/myflorida/government/governorinitiatives/space\\_commission/05-120.html](http://www.myflorida.com/myflorida/government/governorinitiatives/space_commission/05-120.html).

### *Economic Diversification*

- 9) Position Florida to assemble, test, check out, launch, maintain, and refurbish the Crew Exploration Vehicle.
- 10) Reaffirm space and aeronautics as a statewide target industry with Enterprise Florida as the lead business development agency.
- 11) Expand the tools available for recruitment of space and aeronautics businesses.
- 12) Provide targeted support and venture capital for aerospace technology businesses that are created in Florida.

### *Space Launch Environment*

- 13) Support federal efforts to renew and upgrade the infrastructure and technologies at the Cape Canaveral Spaceport and Eastern Range to support the nation's Vision, new military programs, and commercial growth.
- 14) Improve highway, rail, and waterway connections to the Cape Canaveral Spaceport.
- 15) Advocate for enhanced federal procedures and customer service for commercial launches.
- 16) Plan and develop a commercial spaceport targeted initially at horizontal launches and located separately from the federal lands at the Cape.

### *Management*

- 17) Consolidate Florida's existing space entities into a new organization, Space Florida.
- 18) Provide dedicated funding to support innovative education programs or other space initiatives.<sup>2</sup>

### State Space Entities in Florida

There are three statutory space entities in Florida: The Florida Space Authority (FSA), the Florida Space Research Institute (FSRI), and the Florida Aerospace Finance Corporation (FAFC). Each space entity is governed by a board with appointed members and each board is made up of a combination of public and private sector representatives intended to bring industry expertise to the issues. The FSA executive director serves as a board member on both the FSRI and FAFC boards. Enterprise Florida, Inc., serves on the FSRI and FAFC boards, however, not on the FSA board. Additionally, the Enterprise Florida, Inc., board is not specifically required to maintain space representation.<sup>3</sup> Enterprise Florida, Inc. sponsors two stakeholder groups with a relationship to aerospace: the Florida Aviation Aerospace Alliance and the Florida Defense Alliance.

### *Florida Space Authority*

In 1989, the Legislature created the Spaceport Florida Authority Act which established the Spaceport Florida Authority. In 2002, the Legislature renamed it the Florida Space Authority.<sup>4</sup> Originally conceived as a space transportation authority, Chapter 331, F.S., empowered FSA to perform nearly every function required to develop and operate a spaceport.<sup>5</sup>

Section 331.302(1), F.S., provides legislative intent that the FSA:

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<sup>2</sup> *Governor's Commission on the Future of Space and Aeronautics in Florida Final Report*, January 2006, p. 4-1.

<sup>3</sup> See s. 288.901, F.S.

<sup>4</sup> On November 20, 2001, the Spaceport Florida Authority's Board of Supervisors voted to change the authority's name to reflect a shift from the authority's mission of primarily launch facilitation to the comprehensive planning and implementation of all phases of space business and economic development, including research and development. The name change of the authority was amended into statutes during the 2002 legislative session. See House of Representatives Staff Analysis for HB 1557, February 24, 2002, pp. 2-3.

<sup>5</sup> Available at [www.floridaspaceauthority.com](http://www.floridaspaceauthority.com).

- Provide a unified direction for space-related economic growth and educational development to do the following:
  - Ensure a stable and dynamic economic climate;
  - Attract and maintain space-related businesses suitable to the state; and
  - Further the coordination and development of Florida's economy.

Section 331.302(3), F.S., further provides the FSA with the following purposes, functions, and responsibilities:

- Develop a strategy for, and implement the acceleration of, space-related economic growth and educational development within the state;
- Provide projects in the state which will develop and improve the entrepreneurial atmosphere;
- Provide coordination among space businesses, Florida universities, space tourism and the Spaceport Florida launch centers; and
- Provide activities designed to stimulate the development of space commerce.<sup>6</sup>

In accordance with s. 331.308, F.S., the FSA Board of Supervisors (board) currently is composed of eight regular members that are appointed by the Governor, a state senator ex officio nonvoting member, a state representative ex officio nonvoting member, and the Lt. Governor, who is chair of the board. All regular members are subject to confirmation by the Senate. The board members must have experience in the aerospace or commercial space industry or in finance, or have other significant relevant experience. Further, one member must represent organized labor interests, one must represent minority interests, and four must represent space industry.

#### *Florida Space Research Institute*

In 1999, the legislature created the Florida Space Research Institute. Originally recommended in a 1988 Space Commission report,<sup>7</sup> FSRI was created to expand and diversify the state's involvement in space research and technology development. In accordance with s. 331.368(1), F.S., FSRI is to serve as an industry-driven center for research, leveraging the state's resources in a collaborative effort to support Florida's space industry and its expansion, diversification and transition to commercialization.<sup>8</sup>

On December 15<sup>th</sup> of each year, FSRI is to report its annual activities and accomplishments to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Commissioner of Education. Further, FSRI is to include the following in its report:

- Provide recommendations regarding actions the state should take to enhance the development of space-related businesses, including:
  - Future research activities;
  - The development of capital and technology assistance to new and expanding industries;
  - The removal of regulatory impediments;
  - The establishment of business development incentives; and
  - The initiation of education and training programs to ensure a skilled workforce.<sup>9</sup>

<sup>6</sup> See s. 331.302, F.S.

<sup>7</sup> *Florida Governor's Commission on Space Final Report to Governor Martinez, Steps to the Stars*, July 7, 1988, p. 36.

<sup>8</sup> See s. 331.368(1), F.S.

<sup>9</sup> See s. 331.368(8), F.S.

## *Florida Aerospace Finance Corporation*

In 1999, the legislature also created the Florida Commercial Space Financing Corporation and, in 2002, the legislature renamed it the Florida Aerospace Finance Corporation. As provided in s. 331.407(1), F.S., the purpose of FAFC is to expand employment and income opportunities for residents of this state by providing businesses domiciled in this state with information, technical assistance and financial assistance.<sup>10</sup>

The purpose of these functions is to support space-related transactions in order to increase the development of commercial aerospace products, activities, services, and facilities within the state. Chapter 331, F.S., authorizes FAFC to do the following:

- Insure, coinsure, lend, and guarantee loans;
- Capitalize, underwrite, and secure funding;
- Construct, lease, or sell aerospace infrastructure, satellites, launch vehicles, and related activities;
- Acquire property;
- Make and exercise contracts;
- Make direct, guaranteed, or collateralized loans;
- Create an account for the purposes of receiving state, federal, and financial resources, and to invest in permissible securities.

It is generally understood within the industry that FSRI and FAFC were “spun off” of FSA to provide specialized focus on the accomplishment of specific purposes. An alternative explanation is that the policy scope was too large for one entity and that there was a need for additional organizations as conceived in the 1988 report.

### Spaceport Management Council

Section 331.367, F.S., authorizes the Spaceport Management Council (management council), which coordinates between government agencies and commercial operators for the purpose of developing recommendations on projects and activities to increase the operability and capabilities of the state’s space launch facilities, increase statewide space-related industry and opportunities, and promote space education, research, and technology development. The management council is also to create an integrated facility plan and programmatic development plans to address commercial, state, and federal requirements. They are to identify appropriate private, state, and federal resources to implement those plans.

The management council has an executive board which is composed of the executive director of FSA, the Secretary of Transportation, the president of Enterprise Florida, Inc., and the director of the Office of Tourism, Trade, and Economic Development. The management council also has a Space Industry Committee, which is made up of representatives of Florida’s space industry.

Although required by s. 331.367(8), F.S., to meet at least semi-annually, this council, created in 1999, has not functioned as an advisory panel for several years. According to the FSA, this is because the federal members have stated that they cannot participate in such a council due to restrictions placed on them by the Federal Advisory Act.

The federal government agencies (NASA/KSC and the USAF)<sup>11</sup> are the landlords of the spaceport, and thus control all activity thereon. The goals of the management

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<sup>10</sup> See s. 331.407(1), F.S.

<sup>11</sup> NASA stands for National Aeronautics and Space Administration; KSC stands for the John F. Kennedy Space Center; and USAF stands for the United States Air Force.

council were defeated through lack of authority to implement initiatives. Out of frustration, interest in the council dissolved.<sup>12</sup>

Section 331.367(4) (c), F.S., allows participation by federal entities to contribute to the management council's effectiveness; however their participation is not mandatory.

Sections 331.367(6) and (7), F.S., require the council to provide "infrastructure and program requirements and develop other information to be utilized in a 5-year spaceport master plan" and provide "requirements and other information to be utilized in the development of a 5-year Spaceport Economic Plan..." Although these plans have been prepared, it has been without the statutorily-required input of the council.

### Tax Exemptions for Space Flight Businesses

Currently, there are no sales and use tax exemptions for machinery and equipment used by space flight businesses in designing or creating a space flight vehicle or components of a space flight vehicle. Section 212.031(1) (a) 13, F.S., provides an exemption from the sales tax imposed on the rental of real property for property used for space flight business purposes. "Space flight business" is defined as the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight,<sup>13</sup> or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto.

A number of developments in recent years are significantly affecting space enterprises in Florida. In January 2004, President Bush committed the United States to a long-term human and robotic program to explore the solar system, starting with a return to the Moon that will ultimately enable future exploration of Mars and other destinations. The President's plan envisions completion of the International Space Station, retirement of the Space Shuttle by 2010, and the introduction of a new Crew Exploration Vehicle (CEV).

The President's new vision has significant implications for Florida. More than half of Florida's current space-related activities are linked to the Space Shuttle and the International Space Station. The smaller CEV will require significantly fewer personnel at the Kennedy Space Center.

The commission recommended increasing the sales and use tax exemptions for space and defense research, development, and production machinery and equipment from 25 to 100 percent.<sup>14</sup> The Governor's FY 2005-06 Budget Recommendations also includes this proposed policy.

### Centers of Excellence

In 2002, the Florida Technology Development Act (Technology Act) was enacted, which established a process for the State Board of Education to develop, approve, and authorize expenditures for one or more centers of excellence.<sup>15</sup> A center of excellence is one model to stimulate university to industry technology transfer. The Emerging Technologies Commission, created in the Technology Act, subsequently designated three centers of excellence and distributed \$30 million, which was appropriated by the legislature for this purpose.

Currently, there are three technological Centers of Excellence in the state: The Center of Excellence for Regenerative Health Biotechnology at the University of Florida, the Center of Excellence in Biomedical

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<sup>12</sup> Florida's 2006 Space Strategy, Florida Space Authority, p. 15.

<sup>13</sup> Section 212.02(23), F.S., defines "space flight" as any flight designed for suborbital, orbital, or interplanetary travel of a space vehicle, satellite, or station of any kind.

<sup>14</sup> *Governor's Commission on the Future of Space and Aeronautics in Florida Final Report*, January 2006, p. 3-15.

<sup>15</sup> See SB 1844, enrolled, 2002 Legislative Session.

and Marine Biotechnology at Florida Atlantic University, and Florida Photonics Center of Excellence at University of Central Florida. Each center received \$10 million to facilitate collaborative public-private research, create partnerships between industrial and governmental entities to advance knowledge and research, recruit and retain eminent scholars in advanced technology disciplines, and move technologies from academic laboratories to commercial sectors.

The authorizing legislation, s. 1004.225, F.S., sunset on July 1, 2004. Legislation reestablishing centers of excellence failed to pass during the 2005 Legislative Session.

#### Center for Math and Science Education Research

The Governor's Commission recommended that a Center for Math and Science Education Research be established at a university to enhance the quality of K-12 math and science instruction in the state. The report specified the following:

Modeled after the existing Center for Reading Research, this Center should identify and disseminate effective teaching strategies and materials for science, mathematics, and related disciplines. The Center should be organized with regional partners who can assist in disseminating information and helping teachers and school systems identify professional development programs that can implement key research findings. The Center can build upon existing programs such as FSRI's Project Launch, which uses space as an overarching theme to help improve mathematics and science teaching, particularly in low-performing schools.<sup>16</sup>

The Department of Education noted the following:

The establishment of the Florida Center for Mathematics and Science supports the current efforts of secondary reform in Florida. The proposed high school reform efforts include increased graduation requirements in the area of mathematics. The creation of the center would also help facilitate a decreased need for remediation among graduates of Florida's public high schools upon matriculation into postsecondary. The percent of Florida high school graduates entering our community college system in need of remediation in mathematics was 54% in 2003-2004. Additionally, two critical teacher shortage areas are mathematics and science.<sup>17</sup>

#### **Effects of the Bill**

HB 1489 w/ CS contains some of the commission's recommendations regarding the future of aerospace in Florida.

The bill redesignates FSA as Space Florida and dissolves the three statutory entities, FSA, FSRI, and FAFC, effective September 1, 2006.<sup>18</sup> The bill renames FSA as Space Florida throughout Chapter 331 and cross-references in other chapters of the Florida Statutes. It also changes the name of Space Florida's "Board of Supervisors" to "Board of Directors" and the "executive director" to the "president." Space Florida, as the successor organization, is to assume the records, property, obligations, and unexpended balances of appropriations, allocations, or other funds of, the three former entities.

#### Legislative Findings and Intent

<sup>16</sup> *Florida Governor's Commission on the Future of Space and Aeronautics in Florida Final Report*, January 2006, p. 3-7.

<sup>17</sup> 2006 Legislative Bill Analysis for SB 2580, Department of Education, March 22, 2006, p. 3

<sup>18</sup> The effective date of the act is "upon becoming a law."

The bill provides legislative findings and intent that there should be a single, private-public board to strengthen civil and military aerospace activity and emerge as a leader in space exploration and commercial aerospace opportunities, including the integration of space, aeronautics and aviation technologies. The intent is that there be a single point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector. The bill provides intent that Space Florida will do the following:

- Encourage public and private sectors to work together to enhance the state's workforce, education, and research capabilities with emphasis on math, science, engineering, and related fields;
- Focus on the state's economic development efforts in order to capture a larger share of activity in aerospace research, technology, production, and commercial operations, while maintaining the state's historical leadership in space launch activities; and
- Preserve the national role served by the Cape Canaveral Air Force Station and Kennedy Space Center by reducing costs and improving the regulatory flexibility for commercial launches while pursuing the development of sites for commercial horizontal launches.

### Definitions

The bill expands the definitions of the following terms: aerospace, launch pad, person, and project to more accurately reflect the inclusion of commercial space flight activity and emerging technologies within the aerospace industry.

### Purpose and Duties of Space Florida

The bill creates Space Florida as a public corporation, body politic, and subdivision of the state. A 1994 Attorney General Opinion found that the Florida Space Authority, which is also created as a public corporation, body politic, and subdivision of the state, is an independent special district as defined in s. 189.403(3), F.S.<sup>19</sup>

Space Florida is directed to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs. It is also directed to advise, coordinate, cooperate, and, when necessary, enter into memoranda of agreement with municipalities, counties, regional authorities, state agencies and organizations, appropriate federal agencies, and organizations, and other interested persons and groups. Space Florida cannot endorse public office candidates or contribute money to public office campaigns.

The bill changes the due date of the annual report made to the Legislature consisting of a summary of all travel, entertainment, and incidental expenses from the previous fiscal year from November 30 to September 1. It requires an annual performance report due by September 1 for the prior fiscal year.

Currently, a corporation may not incorporate or transact business in the state using the name "spaceport Florida" or "Florida spaceport" without written approval from FSA. The bill expands this list to limit utilization of the names "Space Florida," "Florida Space Authority," "Florida Space Research Institute," and "Florida Aerospace Finance Corporation" by other entities.

Section 331.3051, F.S., is created to assign Space Florida specific duties.

- By March 1, 2007, create a business plan which addresses:

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<sup>19</sup> Attorney General Opinion 94-85, October 12, 1994. NOTE: The opinion addressed the Spaceport Florida Authority; however the name of the entity was amended into statutes during the 2002 legislative session.

- Business development;
- Finance;
- Spaceport operations;
- Research and development;
- Workforce development; and
- Education.

The remainder of this section categorizes duties within the target areas listed above.

For the business development and finance target areas of Space Florida's duties, the bill directs Space Florida to consult and coordinate with the following entities:

- The Commission on Tourism and EFI to develop a public advertising program promoting aerospace-related activities, businesses, or any Space Florida project.
- EFI to develop a plan to retain, expand, attract, and create public or private aerospace industry entities and to develop a plan to assist in the financing of aerospace businesses.

The bill directs Space Florida to create a marketing campaign to help attract, develop, and retain aerospace businesses, aerospace research and technology, and other related activities. It requires that the campaign be coordinated with any existing economic development promotion efforts in the state.

For the spaceport operations target area of Space Florida's duties, the bill directs Space Florida to do the following:

- Seek federal support and developing partnerships to renew and upgrade the infrastructure and technologies at the Cape Canaveral Air Force Station, Kennedy Space Center, and the Eastern Range and assist in clarifying roles and responsibilities of federal agencies and eliminate duplicative rules and policies in order to improve and streamline access for commercial launch activities.<sup>20</sup>
- Promote and facilitate launch activity by assisting commercial launch operators with completing documentation, approval, and authorization requirements from federal agencies.
- Consult with appropriate federal, state, and local authorities and the industry on all aspects of establishing and operating spaceport infrastructure and related facilities.
- Pursue the development of additional commercial spaceports in partnership with local and federal government and private entities.

For the research and development target areas, the bill directs that Space Florida contract for the operations of the state's Space Life Sciences Laboratory. This is a facility which houses a state-of-the-art space bio-imaging laboratory that provides life sciences research that will be needed for long-duration trips to the Moon and Mars. According to FSRI, the laboratory can support research in many areas, including astrobiology, biomedical space science (radiation effects, bone demineralization, and muscle atrophy) and bioregenerative life support.<sup>21</sup> Currently, FSRI co-manages this facility with NASA, and manages other leases with universities for use of the laboratory.

Also under the research and development target area of Space Florida's duties, the bill instructs Space Florida to collaborate with public and private universities and other public or private entities to develop a

<sup>20</sup> A repeated voiced concern by many commercial space operators is the lengthy process and large number of regulations that must be adhered to when operating a commercial launch on federal property.

<sup>21</sup> Florida Space Research Institute, 2005 Annual Report, p. 4.



proposal for a Center of Excellence for Aerospace that will foster and promote the research necessary to “develop commercially promising, advanced, and innovative science and technology and will transfer those discoveries to the commercial sector.” A Center of Excellence supports FSRI’s current duties related to industry-centered research, expansion and diversification of space-related business, and commercialization. A center also enables collaboration around research and technologies that support space, military, and defense sectors. See discussion of Centers of Excellence in *Present Situation*.

For the workforce development and education target areas, the bill directs Space Florida to consult and work in conjunction with the following entities:

- Workforce Florida, Inc., and to collaborate with Florida vocational institutes, community colleges, colleges, and public and private universities, to develop a plan to retain, train, and retrain workers with the skills most relevant to aeronautics employers.
- The Department of Education to develop innovative aerospace-related education programs that promote math and science education for grades K-20.

#### Powers of Space Florida

The bill moves the following powers from FAFC to Space Florida:

- Insure, coinsure, lend, and guarantee loans and to originate for sale direct aerospace-related loans, pursuant to criteria, bylaws, policies, and procedures adopted by the board.
- Capitalize, underwrite, and secure funding for aerospace infrastructure, satellites, launch vehicles, and any service that supports aerospace launches.
- Construct, lease, or sell aerospace infrastructure, satellites, launch vehicles, and any other related activities and services.

The bill moves the following power from FSRI to Space Florida:

- Acquire, accept, or administer grants, contracts, and fees from other organizations to perform activities that are consistent with the purposes of this section.

The bill moves the power to establish a personnel management system to the board of directors.

The bill removes the power of eminent domain in spaceport territories from Space Florida. It also repeals s. 331.314, F.S., which provides that FSA has exclusive power and authority to regulate spaceports in Florida.

#### Board of Directors

A majority of the provisions regarding the composition of the board are the same. The major differences include the following:

- The Governor, rather than the Lieutenant Governor, is to serve as chair of the board.
- Designees of appointed members may not vote.
- Board members are required to file disclosure of financial interests pursuant to s. 112.3145, F.S.
- The board is increased from eight to 20 members. Requirements for membership of the board were increased to include eight Governor-appointed members from the private sector; one of which is to be a representative of organized labor,<sup>22</sup> and the following, including their designees:

<sup>22</sup> The Governor is directed to attempt to ensure that the board includes, but is not limited to, individuals representing the industries of business, finance, marketing, space, aerospace, aviation, defense, research and development, and education. The Governor is also to “consider whether the current members of the board, together with potential

Governor, Secretary of Transportation, president of Workforce Florida, Inc., president of Enterprise Florida, Inc., president of Florida Tourism Commission's direct-support organization, and the Commissioner of Education. Six members are to be appointed from the private sector by the Senate and House of Representatives. There are also two non-voting ex officios - a Senator and a Member of the House of Representatives.

#### Powers and Duties of Board of Directors

Some provisions that were originally listed in statute as powers are changed to duties, such as selecting an executive director for Space Florida and adopting bylaws, rules, resolutions, and orders.

The bill retains the provision that the executive and Space Florida offices be maintained in close proximity to Kennedy Space Center.

The bill moves the following power from FSRI to Space Florida:

- To provide the strategic direction for the aerospace-related research priorities of the state and its aerospace-related businesses, scope of research projects, and the timeframe for completion of the projects.

The board is authorized to finance aerospace business development projects or initiatives using the funds collected through the Kennedy Space Center sales tax provision.<sup>23</sup>

Personnel management and the establishment of procedures, rules, and rates governing per diem and travel expenses of employees are moved from the responsibility of Space Florida to the board.

The board no longer has the authority to change the name of Space Florida.

#### The Office of Tourism, Trade, and Economic Development

Section 14.2015, F.S., is amended by the bill to authorize the Office of Tourism, Trade, and Economic Development to serve as contract administrator for the Space Florida contract with the state.

#### Tax Issues

The bill amends s. 212.08(5) (j), F.S., which provides for sales and use tax exemptions. It adds "design" and "assemble" to the list of industrial machinery & equipment used in defense of space technology facilities and strikes the current 25% tax credit, allowing these items to be fully tax exempt. The 25% limit on the tax exemption on machinery and equipment used predominately for semiconductor wafer research and development is removed, allowing these items to be fully tax exempt. The bill expands the definition of research and development to include the "design, development, and testing of space launch vehicles, space flight vehicles, missiles, satellites, or research payloads, avionics, and associated control systems and processing systems, and components of any of the foregoing." Adds space flight vehicles and "components of any of the foregoing" to the definition of "space technology products."

The bill adds sub-subparagraph d. to s. 212.20(6) (e) 7, F.S., relating to the distribution of sales and use tax proceeds. Specifies that every dealer conducting business at a fixed location at the Kennedy Space Center or Cape Canaveral Air Force Station and selling admissions to those facilities pursuant to a contract or sub-contract with NASA must file a return each month to the Department of Revenue (DOR). The return must segregate information regarding taxes collected on admissions, leases,

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appointees, reflect the racial, ethnic, and gender diversity, as well as the geographic distribution, of the population of the state."

<sup>23</sup> See Section 60. of the bill.

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licenses, and sales at those facilities and the taxes must be timely remitted to DOR. It requires a dealer to file copies of the return with Space Florida and the Office of Tourism, Trade, and Economic Development and directs DOR to distribute to Space Florida all taxes collected and remitted to the department according to the returns. It specifies that such funds are to be used for aerospace education projects authorized in s. 331.305, F.S.<sup>24</sup>

#### Center for Mathematics and Science Education Research

The bill directs the Department of Education (DOE) to establish the Florida Center for Mathematics and Science Education Research at a state university to increase student achievement in those academic areas. DOE is to monitor the center through the Division of K-12 Public Schools. The bill requires the center to do the following:

- Provide technical assistance and support to school districts and schools in the development and implementation of math and science instruction;
- Conduct applied research on policy and practices related to math and science instruction and assessment in the state;
- Conduct or compile basic research regarding student acquisition of math and science knowledge and skills;
- Develop comprehensive course frameworks for math and science courses that emphasize rigor and relevance at the elementary, middle, and high school levels; and
- Disseminate information regarding research-based teaching practices in math and science to teachers and teacher educators in the state.
- Collect, manage, and report on assessment information regarding student achievement in mathematics and science.
- Establish partnerships with state universities, community colleges, and school districts.
- Collaborate with the Florida Center for Reading Research in order to provide research-based practices that integrate the teaching of reading within mathematics and sciences courses.

#### Spaceport Management Council

The bill repeals s. 331.367, F.S., which provides for the Spaceport Management Council.

#### Dissolution of FSA, FSRI, and FAFC

The FSA, FSRI, and FAFC and their corresponding boards are dissolved effective September 1, 2006. Space Florida will assume their records, property, obligations, and unexpended balances of appropriations, allocations, or other funds. Most of the functions and responsibilities of FSRI and FAFC are not replicated in the language for Space Florida. There is a concern that many of the financial tools that FAFC currently has have been eliminated with the dissolution. The separate existence and not-for-profit status of this corporation allowed it to facilitate and accomplish deals that may not be available under the new language. Similarly, most of the research capabilities and partnerships that were available through FSRI and the advantages of its not-for-profit status seem to be obsolete under the amended chapter. See *Constitutional Issues* for further concerns regarding the structure of the new organization.

The bill directs the Governor, the Senate President, and the House Speaker to appoint the board of directors by July 1, 2006. The board is to hold its first meeting by August 1<sup>st</sup> and appoint a president by September 1<sup>st</sup>. The Executive Office of the Governor is to provide staffing and transitional support until December 31, 2006.

#### C. SECTION DIRECTORY:

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<sup>24</sup> The projects authorized to be funded with these monies are actually addressed in s. 331.3051, F.S.

**Section 1.** amends s. 331.301, F.S.; redesignates the “Florida Space Authority Act” as the “Space Florida Act.”

**Section 2.** creates s. 331.3011, F.S.; provides legislative findings and intent.

**Section 3.** amends s. 331.302, F.S.; creates Space Florida; provides purpose.

**Section 4.** amends s. 331.303, F.S.; removes, revises, and provides definitions.

**Section 5.** amends s. 331.305, F.S., revises powers of Space Florida.

**Section 6.** creates s. 331.3051, F.S.; provides new duties for Space Florida.

**Section 8.** amends s. 331.308, F.S.; revises membership and requirements of the Space Florida board of directors.

**Section 9.** amends s. 331.309, F.S.; revises depository language.

**Section 10.** amends s. 331.310, F.S.; revises powers and duties of the board of supervisors.

**Section 11.** amends s. 331.3101, F.S.; revises annual report submission date.

**Section 48.** amends s. 331.355, F.S.; revises requirements for use of names.

**Section 51.** amends s. 14.2015, F.S.; authorizes the Office of Tourism, Trade, and Economic Development to serve as contract administrator for the state with Space Florida.

**Sections 52.** amends s. 74.011, F.S.; removes Florida Space Authority from eminent domain language.

**Sections 7, 12-47, 49, 50, and 53-58** amend ss. 196.012, 212.02, 288.063, 288.075, 288.35, 288.9415, 331.306, 331.311, 331.312, 331.313, 331.315, 331.316, 331.317, 331.318, 331.319, 331.320, 331.321, 331.322, 331.323, 331.324, 331.325, 331.326, 331.327, 331.328, 331.329, 331.331, 331.333, 331.334, 331.335, 331.336, 331.337, 331.338, 331.339, 331.340, 331.343, 331.345, 331.346, 331.347, 331.348, 331.349, 331.350, 331.351, 331.354, 331.360, and 331.369, F.S.; conform provisions and cross-references.

**Section 59.** amends s. 212.08, F.S.; expands the exemption from the sales and use tax on certain machinery and equipment.

**Section 60.** amends s. 212.20, F.S.; requires dealers at certain business locations to file returns with the Department of Revenue disclosing certain sales tax information; specifying return requirements; requiring the department to distribute certain proceeds to Space Florida; requiring expenditure of such proceeds for certain purposes.

**Section 61.** creates s. 1004.86, F.S.; requires the Department of Education to establish the Florida Center for Mathematics and Science Education Research at a public state university; specifying requirements for the center.

**Section 62.** repeals s. 331.314, F.S., relating to the exclusive authority of the Florida Space Authority to regulate spaceports; repeals s. 331.367, F.S., relating to the Spaceport Management Council; repeals s. 331.368, F.S., relating to the Florida Space Research Institute; repeals ss. 331.401, 331.403, 331.405, 331.407, 331.409, 331.411, 331.415, 331.417, and 331.419, F.S., relating to the Florida Aerospace Finance Corporation.

**Section 63.** dissolves the Florida Space Authority, the Florida Space Research Institute, and the Florida Aerospace Finance Corporation.

**Section 64.** requires the Governor, the President of the Senate, and the Speaker of the House of Representatives to appoint the board of directors of Space Florida by a July 1, 2006; requires the board of directors of Space Florida to hold its first meeting by August 1, 2006; requires the board to appoint a president by September 1, 2006.

**Section 65.** amends s. 288.1224, F.S.; requires the Florida Commission on Tourism to advise and cooperate with Space Florida.

**Section 66.** amends 288.9015, F.S.; requires Enterprise Florida, Inc. to advise and cooperate with Space Florida.

**Section 67.** amends 445.004, F.S.; requires Workforce Florida, Inc. to advise and cooperate with Space Florida.

**Section 68.** amends s. 1001.10, F.S.; requires the Commissioner of Education to advise and cooperate with Space Florida.

**Section 69.** provides that the act take effect upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The Revenue Estimating Conference estimated that the provisions of Section 59 of the bill (sales and use tax exemptions) will have an annualized negative impact of \$2.8 million on the state general revenue in FY 2006.

On February 24, 2006, the Revenue Estimating Conference reviewed the sales tax distribution for dealers located at Cape Canaveral Air Force Station and Kennedy Space Center and determined that the provision would have a negative impact of \$4 million on the state general revenue in FY 2006-07 and \$4.2 million in FY 2007-08.

Other impacts have not yet been determined.

#### **2. Expenditures:**

The impact of Section 60 of the bill (Kennedy Space Center sales tax distribution) on the Department of Revenue and the Office of Tourism, Trade, and Economic Development is indeterminate at this time.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

The Revenue Estimating Conference estimates that the provisions of Section 59 of the bill (sales and use tax exemptions) will have an annualized negative impact of \$.6 million on local revenues for FY 2006.

The sales tax distribution provision for dealers located at Cape Canaveral Air Force Station and Kennedy Space Center should not have an impact on local governments. The bill provides that the monthly distributions not include proceeds of discretionary surtaxes; therefore, the local option sales taxes are not affected.

2. Expenditures:

The bill is not expected to have an effect on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill reduces the tax burden on businesses that are eligible for the sales and use tax exemptions on machinery and equipment for space and defense.

D. FISCAL COMMENTS:

In Fiscal Year 2005-2006, the Legislature appropriated \$2.9 million for Space Business Development , which included: \$700,000 for Florida Space Authority – Operations; \$550,000 for Florida Space Authority – Space Business Development, \$550,000 for Florida Space Authority – Spaceport P&D; \$300,000 for Florida Aerospace Financing Corporation and \$800,000 for the Florida Space Research Institute. In addition, \$3 million was appropriated for Aerospace QTI/Crew Exploration Vehicle.

The Governor's budget recommendations for FY 2006-2007 propose \$2 million from General Revenue for the purpose of establishing a Center for Mathematics and Science Education Research. It also provides \$11 million from General Revenue for Space Florida operations and spaceport development.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Section 6 of Article IV of the Florida Constitution provides that "all functions of the executive branch of state government shall be allotted among not more than twenty-five departments...." and that the administration of each department be placed under the direct supervision of any of five entities, one of which is the Governor. It would appear that Space Florida would constitute a department headed by the Governor. As an alternative, Space Florida could be assigned to an existing executive department and placed under the direct supervision of the head of such department.

Appointment of officers to a board is an executive duty. Providing the President of the Senate and the Speaker of the House of Representatives with appointment powers confuses the powers as assigned by the Florida Constitution. This might be considered a separation of powers concern.

B. RULE-MAKING AUTHORITY:

The bill provides Space Florida sufficient rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The FSA, FSRI, and FAFC are dissolved effective September 1, 2006, and Space Florida will assume their records, property, obligations, and unexpended balances of appropriations, allocations, or other funds. FSRI and FAFC are not-for-profit corporations established to carry out a specified public purpose. Without state funding, the corporations may cease to exist. Due diligence should be exercised with respect to financial matters and completion of tasks in which the corporations are currently engaged.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On March 28, 2006, the Spaceport and Technology Committee passed the bill as a committee substitute, adopting a strike-all amendment that included the following changes:

- Removed definitions of terms not referred to in Chapter 331.
- Changed approval of bond issuance vote from two-thirds of the Governor and Cabinet to three-fourths to accommodate the reduced number of cabinet members since the law was established.
- Added that business development projects could be funded with monies from the sales tax revenues collected from the Cape Canaveral Air Force Station and Kennedy Space Center and distributed to Space Florida (in Section 60 of the bill). The original bill only authorized the funds to be used for education initiatives.
- Added that Space Florida and its executive office must remain in close proximity to Kennedy Space Center.
- Increased the number of Governor-appointed members of the board from seven to eight, stipulating that one of the appointees must be a representative of organized labor,
- Added that members of the board of directors must be state residents.
- Provided for an annual performance report with respect to Space Florida's business plan.
- Removed memoranda of agreement language and replaced with direction to advise and cooperate with state entities and partners in the areas of economic development, marketing, and education.
- Made technical corrections.

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CHAMBER ACTION

The Spaceport & Technology Committee recommends the following:

**Council/Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to the state's aerospace industry; redesignating the "Florida Space Authority" as "Space Florida"; creating s. 331.3011, F.S.; providing legislative intent; providing definitions; revising and consolidating the roles, purposes, responsibilities, assets, and duties of the Florida Space Authority as those of Space Florida; deleting authority to establish facilities and complementary activities; providing additional powers and duties of Space Florida; prohibiting Space Florida from endorsing political candidates or making campaign contributions; characterizing certain property as Space Florida territory; creating s. 331.3051, F.S.; providing additional powers and responsibilities of Space Florida relating to the state's aerospace industry; deleting authority to exercise eminent domain powers; requiring Space Florida to create a business plan and a marketing campaign; requiring Space Florida to coordinate its activities with federal and state agencies; amending

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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24        s. 331.308, F.S.; replacing provisions providing for a  
25        board of supervisors with provisions providing for a board  
26        of directors of Space Florida; providing for designation  
27        and appointment of members; providing requirements of  
28        board members; providing for terms, removal of members,  
29        and filling of vacancies; providing for board meetings;  
30        specifying service without compensation; providing for  
31        reimbursement of certain expenses; providing financial  
32        disclosure requirements; revising powers and duties of the  
33        board; amending ss. 331.301, 331.302, 331.303, 331.305,  
34        331.306, 331.309, 331.310, 331.3101, 331.311, 331.312,  
35        331.313, 331.315, 331.316, 331.317, 331.318, 331.319,  
36        331.320, 331.321, 331.322, 331.323, 331.324, 331.325,  
37        331.326, 331.327, 331.328, 331.329, 331.331, 331.333,  
38        331.334, 331.335, 331.336, 331.337, 331.338, 331.339,  
39        331.340, 331.343, 331.345, 331.346, 331.347, 331.348,  
40        331.349, 331.350, 331.351, 331.354, 331.355, 331.360, and  
41        331.369, F.S., to conform; amending ss. 14.2015, 74.011,  
42        196.012, 212.02, 288.063, 288.075, 288.35, and 288.9415,  
43        F.S., to conform; amending s. 212.08, F.S.; expanding the  
44        exemption from the sales and use tax on certain machinery  
45        and equipment; amending s. 212.20, F.S.; requiring dealers  
46        at certain business locations to file returns with the  
47        Department of Revenue disclosing certain sales tax  
48        information; specifying return requirements; requiring the  
49        department to distribute certain proceeds to Space  
50        Florida; requiring expenditure of such proceeds for  
51        certain purposes; creating s. 1004.86, F.S.; requiring the

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52 Department of Education to establish the Florida Center  
53 for Mathematics and Science Education Research at a public  
54 state university; specifying requirements for the center;  
55 repealing s. 331.314, F.S., relating to the exclusive  
56 authority of the Florida Space Authority to regulate  
57 spaceports; repealing s. 331.367, F.S., relating to the  
58 Spaceport Management Council; repealing s. 331.368, F.S.,  
59 relating to the Florida Space Research Institute;  
60 repealing ss. 331.401, 331.403, 331.405, 331.407, 331.409,  
61 331.411, 331.415, 331.417, and 331.419, F.S., relating to  
62 the Florida Aerospace Finance Corporation; providing that  
63 the Florida Space Authority, the Florida Space Research  
64 Institute, and the Florida Aerospace Finance Corporation  
65 are dissolved on a specified date; providing that Space  
66 Florida assumes the records, property, and unexpended  
67 balances of appropriations, allocations, and other funds  
68 from the dissolved entities; requiring the Governor, the  
69 President of the Senate, and the Speaker of the House of  
70 Representatives to appoint the board of directors of Space  
71 Florida by a specified date; requiring the board of  
72 directors of Space Florida to hold its first meeting by a  
73 specified date; amending ss. 228.1224, 288.9015, 445.004,  
74 and 1001.10, F.S.; requiring the Florida Commission on  
75 Tourism, Enterprise Florida, Inc., Workforce Florida,  
76 Inc., and the Commissioner of Education to advise and  
77 cooperate with Space Florida under certain circumstances;  
78 providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 331.301, Florida Statutes, is amended to read:

331.301 Short title.--This act may be cited as the "Space Florida ~~Space Authority~~ Act."

Section 2. Section 331.3011, Florida Statutes, is created to read:

331.3011 Legislative findings and intent.--

(1) The Legislature finds and declares that the aerospace industry of this state is integral to the state's long-term success in diversifying its economy and building a knowledge-based economy that is able to support the creation of high value-added businesses and jobs. Further, under the direction and leadership of a single, private-public board, this state has the opportunity to strengthen its existing leadership in civil and military aerospace activity and emerge as a leader in the nation's new vision for space exploration and commercial aerospace opportunities, including the integration of space, aeronautics, and aviation technologies. As the leading location for talent, research, advanced technologies and systems development, launch, and other aerospace-based industry activities, this state can position itself for sustainable economic growth and prosperity.

(2) The Legislature finds that attaining this vision requires a strong public and private commitment to a world class aerospace industry. It is the intent of the Legislature that Space Florida will encourage the public and private sectors to

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work together to implement an aggressive strategy that enhances the state's workforce, education, and research capabilities, with emphasis on mathematics, science, engineering, and related fields; will focus on the state's economic development efforts in order to capture a larger share of activity in aerospace research, technology, production, and commercial operations, while maintaining the state's historical leadership in space launch activities; and will preserve the unique national role served by the Cape Canaveral Air Force Station and Kennedy Space Center by reducing costs and improving the regulatory flexibility for commercial sector launches while pursuing the development of sites for commercial horizontal launches.

(3) It is the intent of the Legislature that aerospace activities be highly visible and coordinated within this state. To that end, it is the intent of the Legislature that Space Florida provide a single point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector.

Section 3. Section 331.302, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 331.302, F.S., for present text.)

331.302 Space Florida; creation; purpose.--

(1) There is established, formed, and created Space Florida, which is created and incorporated as a public corporation, body politic, and subdivision of the state to foster the growth and development of a sustainable and world-leading aerospace industry in this state. Space Florida shall

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promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs. Space Florida has all the powers, rights, privileges, and authority as provided under the laws of this state.

(2) In carrying out its duties and responsibilities, Space Florida shall advise, coordinate, cooperate, and, when necessary, enter into memoranda of agreement with municipalities, counties, regional authorities, state agencies and organizations, appropriate federal agencies and organizations, and other interested persons and groups.

(3) Space Florida may not endorse any candidate for any elected public office or contribute money to the campaign of any candidate for public office.

(4) Space Florida is not an agency as defined in ss. 216.011 and 287.012.

Section 4. Section 331.303, Florida Statutes, is amended to read:

331.303 Definitions.--

(1) "Aerospace" means the industry that designs and manufactures aircraft, rockets, missiles, spacecraft, satellites, space vehicles, space stations, space facilities or components thereof, and equipment, systems, facilities, simulators, programs, and related activities. ~~"Authority" means the Florida Space Authority created by this act.~~

(2) "Board" or "board of directors supervisors" means the governing body of Space Florida ~~the authority.~~

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(3) "Bonds" means revenue bonds, assessment bonds, or other bonds or obligations issued by Space Florida ~~the authority~~ for the purpose of raising financing for its projects.

(4) "Business client" means any person, other than a state official or state employee, who receives the services of, or is the subject of solicitation by, representatives of Space Florida ~~the authority~~ in connection with the performance of its statutory duties, including purchasers or prospective purchasers of Space Florida ~~authority~~ services, persons or representatives of firms considering or being solicited for investment in Space Florida ~~authority~~ projects, persons or representatives of firms considering or being solicited for location, relocation, or expansion of an aerospace-related ~~a space-related~~ business within the state, and business, financial, or other persons connected with the aerospace ~~space~~ industry.

~~(5) "Complementary activity" means any space business incubator, space tourism activity, educational involvement in an incubator, or space tourism and space related research and development.~~

~~(6) "Conduit bond" means any bond of the authority which is a nonrecourse obligation of the authority payable from the proceeds of such bonds and related financing agreements.~~

~~(5)-(7)~~ (5) "Cost" means all costs, fees, charges, expenses, and amounts associated with the development of projects by Space Florida ~~the authority~~.

~~(6)-(8)~~ (6) "Entertainment expenses" means the actual, necessary, and reasonable costs of providing hospitality for business clients or guests, which costs are defined and

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191 prescribed by rules adopted by Space Florida ~~the authority~~,  
192 subject to approval by the Chief Financial Officer.

193 ~~(9) "Federal aid" means any property, funding, or other~~  
194 ~~financial assistance provided by the Federal Government to the~~  
195 ~~authority for its projects.~~

196 ~~(7)(10)~~ (7) "Financing agreement" means a lease, lease-  
197 purchase agreement, lease with option to purchase, sale or  
198 installment sale agreement, whether title passes in whole or in  
199 part at any time before ~~prior to~~, at, or after completion of the  
200 project, loan agreement, or other agreement forming the basis  
201 for the financing under this act, including any agreements,  
202 guarantees, or security instruments forming part of or related  
203 to providing assurance of payment of the obligations under the  
204 ~~such~~ financing agreement.

205 ~~(8)(11)~~ (8) "Guest" means a person, other than a state  
206 official or state employee, authorized by the board or its  
207 designee to receive the hospitality of Space Florida ~~the~~  
208 ~~authority~~ in connection with the performance of its statutory  
209 duties.

210 ~~(9)(12)~~ (9) "Landing area" means the geographical area  
211 designated by Space Florida ~~the authority~~ within the spaceport  
212 territory for or intended for the landing and surface  
213 maneuvering of any launch or other space vehicle.

214 ~~(10)(13)~~ (10) "Launch pad" means any launch pad, runway,  
215 airstrip, or similar facility used by the spaceport or spaceport  
216 ~~user~~ for launching ~~of~~ space vehicles.

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217        (11)~~(14)~~ "Payload" means any property or cargo to be  
218 transported aboard any vehicle launched by or from the  
219 spaceport.

220        (12)~~(15)~~ "Person" means any individual, child, community  
221 college, college, university, firm, association, joint venture,  
222 partnership, estate, trust, business trust, syndicate,  
223 fiduciary, corporation, nation, government (federal, state, or  
224 local), agency (government or other), subdivision of the state,  
225 municipality, county, business entity, or any other group or  
226 combination.

227        (13)~~(16)~~ "Project" means any development, improvement,  
228 property, launch, utility, facility, system, works, road,  
229 sidewalk, enterprise, service, or convenience, which may include  
230 coordination with state partners or agencies ~~Enterprise Florida,~~  
231 ~~Inc., the Board of Education, the Florida Aerospace Finance~~  
232 ~~Corporation, and the Florida Space Research Institute;~~ any  
233 rocket, capsule, module, launch facility, assembly facility,  
234 operations or control facility, tracking facility,  
235 administrative facility, or any other type of aerospace-related  
236 ~~space-related~~ transportation vehicle, station, or facility; any  
237 type of equipment or instrument to be used or useful in  
238 connection with any of the foregoing; any type of intellectual  
239 property and intellectual property protection in connection with  
240 any of the foregoing including, without limitation, any patent,  
241 copyright, trademark, and service mark for, among other things,  
242 computer software; any water, wastewater, gas, or electric  
243 utility system, plant, or distribution or collection system; any  
244 small business incubator initiative, including any startup



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245 aerospace company, and any aerospace business proposing to  
246 expand or locate its business in this state, research and  
247 development company, research and development facility,  
248 education and workforce training facility, storage facility, and  
249 consulting service; or any tourism initiative, including any  
250 space experience attraction, microgravity flight program,  
251 aerospace space-launch-related activity, and space museum  
252 sponsored or promoted by Space Florida ~~the authority~~.

253        (14)~~(17)~~ "Range" means the geographical area designated by  
254 Space Florida ~~the authority~~ or other appropriate body as the  
255 area for the launching of rockets, missiles, launch vehicles,  
256 and other vehicles designed to reach high altitude.

257        (15)~~(18)~~ "Recovery" means the recovery of space vehicles  
258 and payloads which have been launched from or by a ~~the~~  
259 spaceport.

260        (16)~~(19)~~ "Spaceport" means any area of land or water, or  
261 any manmade object or facility located therein, developed by  
262 Space Florida ~~the authority~~ under this act, which area is  
263 intended for public use or for the launching, takeoff, and  
264 landing of spacecraft and aircraft, and includes any appurtenant  
265 areas which are used or intended for public use, for spaceport  
266 buildings, or for other spaceport facilities, spaceport  
267 projects, or rights-of-way.

268        ~~(20) "Spaceport Florida" means the authority or its~~  
269 ~~facilities and projects.~~

270        (17)~~(21)~~ "Spaceport launch facilities" means ~~shall be~~  
271 ~~defined as~~ industrial facilities as described in ~~accordance with~~

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s. 380.0651(3)(c) and include any launch pad, launch control center, and fixed launch-support equipment.

~~(22) "Spaceport system" means the programs, organizations, and infrastructure developed by the authority for the development of facilities or activities to enhance and provide commercial space-related development opportunities for business, education, and government within the state.~~

(18)~~(23)~~ "Spaceport territory" means the geographical area designated in s. 331.304 and as amended or changed in accordance with s. 331.329.

(19)~~(24)~~ "Spaceport user" means any person who uses the facilities or services of any spaceport; and, for the purposes of any exemptions or rights granted under this act, the said spaceport user shall be deemed a spaceport user only during the time period in which the ~~such~~ person has in effect a contract, memorandum of understanding, or agreement with the spaceport, and such rights and exemptions shall be granted with respect to transactions relating only to spaceport projects.

(20)~~(25)~~ "Travel expenses" means the actual, necessary, and reasonable costs of transportation, meals, lodging, and incidental expenses normally incurred by a traveler, which costs are defined and prescribed by rules adopted by Space Florida ~~the authority~~, subject to approval by the Chief Financial Officer.

(21)~~(26)~~ "Spaceport discretionary capacity improvement projects" means capacity improvements that enhance space transportation capacity at spaceports that have had one or more orbital or suborbital flights during the previous calendar year or have an agreement in writing for installation of one or more

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300 regularly scheduled orbital or suborbital flights upon the  
301 commitment of funds for stipulated spaceport capital  
302 improvements.

303       Section 5.   Section 331.305, Florida Statutes, is amended  
304 to read:

305       331.305   Powers of Space Florida ~~the authority~~.--Space  
306 Florida may ~~The authority shall have the power to:~~

307       (1)   Exercise all powers granted to corporations under the  
308 Florida Business Corporation Act, chapter 607.

309       (2)   Sue and be sued by its name in any court of law or in  
310 equity.

311       (3)   Adopt and use a corporate seal and alter the same at  
312 pleasure.

313       ~~(4)   Review and make recommendations with respect to a~~  
314 ~~strategy to guide and facilitate the future of space-related~~  
315 ~~educational and commercial development. The authority shall in~~  
316 ~~coordination with the Federal Government, private industry, and~~  
317 ~~Florida universities develop a business plan which shall address~~  
318 ~~the expansion of Spaceport Florida locations, space launch~~  
319 ~~capacity, spaceport projects, and complementary activities,~~  
320 ~~which shall include, but not be limited to, a detailed analysis~~  
321 ~~of:~~

322       ~~(a)   The authority and the commercial space industry.~~

323       ~~(b)   Products, services description potential,~~  
324 ~~technologies, skills.~~

325       ~~(c)   Market research and evaluation customers,~~  
326 ~~competition, economics.~~

327       ~~(d)   Marketing plan and strategy.~~

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328       ~~(e) Design and development plan tasks, difficulties,~~  
329       ~~costs.~~  
330       ~~(f) Manufacturing locations, facilities, and operations~~  
331       ~~plan.~~  
332       ~~(g) Management organization roles and responsibilities.~~  
333       ~~(h) Overall schedule (monthly).~~  
334       ~~(i) Important risks, assumptions, and problems.~~  
335       ~~(j) Community impact economic, human development,~~  
336       ~~community development.~~  
337       ~~(k) Financial plan (monthly for first year, quarterly for~~  
338       ~~next 3 years).~~  
339       ~~(l) Proposed authority offering financing,~~  
340       ~~capitalization, use of funds.~~  
341       (4)~~(5)~~ Acquire property, real, personal, intangible,  
342       tangible, or mixed, within or without its territorial limits, in  
343       fee simple or any lesser interest or estate, by purchase, gift,  
344       devise, or lease, on such terms and conditions as the board may  
345       deem necessary or desirable, and sell or otherwise dispose of  
346       the same and of any of the assets and properties of Space  
347       Florida ~~the authority.~~  
348       (5)~~(6)~~ Make and execute any and all contracts and other  
349       instruments necessary or convenient to the exercise of its  
350       powers, including financing agreements with persons or spaceport  
351       users to facilitate the financing, construction, leasing, or  
352       sale of any project.  
353       (6)~~(7)~~ Whenever deemed necessary by the board, lease as  
354       lessor or lessee to or from any person, public or private, any  
355       facilities or property for the use of Space Florida ~~the~~

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356 ~~authority~~ and carry out any of the purposes of Space Florida ~~the~~  
357 ~~authority.~~

358 ~~(8) Appoint, through its board of supervisors, an~~  
359 ~~executive director.~~

360 (7)(9) Own, acquire, construct, develop, create,  
361 reconstruct, equip, operate, maintain, extend, and improve  
362 launch pads, landing areas, ranges, payload assembly buildings,  
363 payload processing facilities, laboratories, aerospace ~~space~~  
364 business incubators, launch vehicles, payloads, space flight  
365 hardware, facilities and equipment for the construction of  
366 payloads, space flight hardware, rockets, and other launch  
367 vehicles, and other spaceport facilities and other aerospace-  
368 related ~~space-related~~ systems, including educational, cultural,  
369 and parking facilities and aerospace-related ~~space-related~~  
370 initiatives.

371 (8) Insure, coinsure, lend, and guarantee loans and to  
372 originate for sale direct aerospace-related loans, pursuant to  
373 criteria, bylaws, policies, and procedures adopted by the board.

374 (9) Capitalize, underwrite, and secure funding for  
375 aerospace infrastructure, satellites, launch vehicles, and any  
376 service that supports aerospace launches.

377 (10) Construct, lease, or sell aerospace infrastructure,  
378 satellites, launch vehicles, and any other related activities  
379 and services.

380 (11) Acquire, accept, or administer grants, contracts, and  
381 fees from other organizations to perform activities that are  
382 consistent with the purposes of this section.

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383       ~~(10) Undertake a program of advertising to the public~~  
384 ~~promoting space related businesses or any spaceport projects of~~  
385 ~~the authority, and expend moneys and undertake such activities~~  
386 ~~to carry out such advertising and promotional program as the~~  
387 ~~board from time to time may determine.~~

388       (12)~~(11)~~ Own, acquire, construct, reconstruct, equip,  
389 operate, maintain, extend, or ~~and~~ improve transportation  
390 facilities appropriate to meet the transportation requirements  
391 of Space Florida ~~the authority~~ and activities conducted within  
392 the spaceport territory.

393       (13)~~(12)~~ Own, acquire, construct, reconstruct, equip,  
394 operate, maintain, extend, or ~~and~~ improve electric power plants,  
395 transmission lines and related facilities, gas mains and  
396 facilities of any nature for the production or distribution of  
397 natural gas, transmission lines and related facilities and  
398 plants and facilities for the generation and transmission of  
399 power through traditional and new and experimental sources of  
400 power and energy; purchase electric power, natural gas, and  
401 other sources of power for distribution within any spaceport  
402 territory; develop and operate water and sewer systems and waste  
403 collection and disposal consistent with chapter 88-130, Laws of  
404 Florida; and develop and operate such new and experimental  
405 public utilities, including, but not limited to, centrally  
406 distributed heating and air-conditioning facilities and  
407 services, closed-circuit television systems, and computer  
408 services and facilities, as the board may from time to time  
409 determine. However, Space Florida may ~~the authority shall~~ not  
410 construct any system, work, project, or utility authorized to be

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411 constructed under this paragraph in the event that a system,  
412 work, project, or utility of a similar character is being  
413 actually operated by a municipality or private company in the  
414 municipality or territory adjacent thereto, unless such  
415 municipality or private company consents to such construction.

416 (14)~~(13)~~ Designate, set aside, and maintain lands and  
417 areas within or without the territorial limits of any spaceport  
418 territory as conservation areas or bird and wildlife  
419 sanctuaries; stock such areas with animal and plant life and  
420 stock water areas with fish and other aquatic life; adopt  
421 pursuant to ss. 120.536(1) and 120.54 ~~promulgate~~ and enforce  
422 rules ~~and regulations~~ with respect thereto and protect and  
423 preserve the natural beauty thereof; and do all acts necessary  
424 or desirable in order to qualify such lands and areas as  
425 conservation areas and sanctuaries under any of the laws of the  
426 state or under federal law.

427 (15)~~(14)~~ Establish a program for the control, abatement,  
428 and elimination of mosquitoes and other noxious insects,  
429 rodents, reptiles, and other pests throughout the spaceport  
430 territory and undertake such works and construct such facilities  
431 within or without the spaceport territory as may be determined  
432 by the board to be needed to effectuate such program; abate and  
433 suppress mosquitoes and other arthropods, whether disease-  
434 bearing or pestiferous, within any spaceport territory when in  
435 the judgment of the board such action is necessary or desirable  
436 for the health and welfare of the inhabitants of or visitors to  
437 any spaceport; and take any and all temporary or permanent  
438 eliminative measures that the board may deem advisable. The

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439 Legislature hereby finds and declares Space Florida ~~the~~  
440 ~~authority~~ eligible to receive state funds, supplies, services,  
441 and equipment available or that may in the future become  
442 available to mosquito or pest control districts, the provisions  
443 of s. 388.021 notwithstanding.

444 (16)~~(15)~~ Subject to the rules and regulations of the  
445 appropriate water management district, own, acquire, construct,  
446 reconstruct, equip, maintain, operate, extend, and improve water  
447 and flood control facilities. The Legislature hereby finds and  
448 declares Space Florida ~~the authority~~ eligible to receive moneys,  
449 disbursements, and assistance from the state available to flood  
450 control or water management districts and navigation districts  
451 or agencies.

452 (17)~~(16)~~ Own, acquire, construct, reconstruct, equip,  
453 maintain, operate, extend, and improve public safety facilities  
454 for the spaceport, including security stations, security  
455 vehicles, fire stations, water mains and plugs, and fire trucks  
456 and other vehicles and equipment; hire employees, security  
457 officers, and firefighters; and undertake such works and  
458 construct such facilities determined by the board to be  
459 necessary or desirable to promote and ensure public safety  
460 within the spaceport territory.

461 (18)~~(17)~~ Hire, through its president ~~executive director~~, a  
462 safety officer with substantial experience in public safety  
463 procedures and programs for space vehicle launching and related  
464 hazardous operations. The safety officer shall monitor and  
465 report on the safety and hazards of ground-based space  
466 operations to the president ~~executive director~~.

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467       ~~(18) Establish a personnel management system for hiring~~  
468 ~~employees and setting employee benefit packages. The personnel~~  
469 ~~of the authority shall not be considered to be within the state~~  
470 ~~employment system.~~

471       ~~(19) Establish procedures, rules, and rates governing per~~  
472 ~~diem and travel expenses of its employees, the members of the~~  
473 ~~board of supervisors, and other persons authorized by the board~~  
474 ~~to incur such expenses. Except as otherwise provided in s.~~  
475 ~~331.3101, such rules are subject to provisions of state law or~~  
476 ~~rules pertaining to per diem and travel expenses of public~~  
477 ~~officers, employees, or other persons authorized by an agency~~  
478 ~~head to incur such expenses.~~

479       (19)~~(20)~~ Examine, develop, and use utilize new concepts,  
480 designs, and ideas; own, acquire, construct, reconstruct, equip,  
481 operate, maintain, extend, and improve experimental spaceport  
482 facilities and services; and otherwise undertake, sponsor,  
483 finance, and maintain such research activities, experimentation,  
484 and development as the board may from time to time determine, in  
485 connection with any of the projects that Space Florida the  
486 authority is authorized to undertake pursuant to the powers and  
487 authority vested in it by this act, and in order to promote the  
488 development and utilization of new concepts, designs, and ideas  
489 in the fields of space exploration, commercialization of the  
490 space industry, and spaceport facilities.

491       (20)~~(21)~~ Issue revenue bonds, assessment bonds, or any  
492 other bonds or obligations authorized by the provisions of this  
493 act or any other law, or any combination of the foregoing, and  
494 pay all or part of the cost of the acquisition, construction,

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495 reconstruction, extension, repair, improvement, or maintenance  
496 of any project or combination of projects, including payloads  
497 and space flight hardware, and equipment for research,  
498 development, and educational activities, to provide for any  
499 facility, service, or other activity of Space Florida ~~the~~  
500 ~~authority~~, and provide for the retirement or refunding of any  
501 bonds or obligations of Space Florida ~~the authority~~, or for any  
502 combination of the foregoing purposes. Space Florida ~~The~~  
503 ~~authority~~ must provide 14 days' notice to the presiding officers  
504 and appropriations chairs of both houses of the Legislature  
505 prior to presenting a bond proposal to the Governor and Cabinet.  
506 If either presiding officer or appropriations chair objects to  
507 the bonding proposal within the 14-day-notice period, the bond  
508 issuance may be approved only by a vote of three-fourths ~~two-~~  
509 ~~thirds~~ of the members of the Governor and Cabinet.

510       ~~(21)-(22)~~ Make expenditures for entertainment and travel  
511 expenses and business clients, guests, and other authorized  
512 persons as provided in this act.

513       ~~(22)-(23)~~ In connection with any financing agreement, fix  
514 and collect fees, loan payments, rental payments, and other  
515 charges for the use of any project in such amount as to provide  
516 sufficient moneys to pay the principal of and interest on bonds  
517 as the same shall become due and payable, if so provided in the  
518 bond resolution or trust agreement, and to create reserves for  
519 such purposes. The fees, rents, payments, and charges and all  
520 other revenues and proceeds derived from the project in  
521 connection with which the bonds of any issue shall have been  
522 issued, except such part thereof as may be necessary for such

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523 reserves or any expenditures as may be provided in the  
524 resolution authorizing the issuance of the bonds or in the trust  
525 agreement securing the same, shall be set aside, at the time as  
526 may be specified in the resolution or trust agreement, in a  
527 sinking fund which may be pledged to and charged with the  
528 payment of the principal of and the interest on such bonds as  
529 the same shall become due and the redemption price or the  
530 purchase price of bonds retired by call or purchase as therein  
531 provided. Such pledge is ~~shall be~~ valid and binding from the  
532 time the pledge is made. The fees, rents, charges, and other  
533 revenues and moneys so pledged and thereafter received by or on  
534 behalf of Space Florida ~~the authority~~ shall immediately be  
535 subject to the lien of any such pledge without any physical  
536 delivery thereof or further act, and the lien of any such pledge  
537 is ~~shall be~~ valid and binding as against all parties having  
538 claims of any kind in tort, contract, or otherwise against Space  
539 Florida ~~the authority~~, irrespective of whether such parties have  
540 notice thereof. Neither the resolution nor any trust agreement  
541 by which a pledge is created need be filed or recorded, except  
542 in the records of Space Florida ~~the authority~~. The use and  
543 disposition of money to the credit of the sinking fund shall be  
544 subject to the provisions of the resolution authorizing the  
545 issuance of such bonds or the provisions of such trust  
546 agreement.

547 ~~(24) Exercise the right and power of eminent domain in~~  
548 ~~spaceport territory as defined in s. 331.304. In exercising such~~  
549 ~~power, the authority shall comply with the procedures and~~  
550 ~~requirements of chapters 73 and 74.~~

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Section 6. Section 331.3051, Florida Statutes, is created to read:

331.3051 Duties of Space Florida.--Space Florida shall:

(1) Create a business plan to foster the growth and development of the aerospace industry. The business plan must address business development; finance; spaceport operations; research and development; workforce development; and education. The business plan must be completed by March 1, 2007, and be revised when determined as necessary by the board.

(2) Consult and coordinate to the extent possible with the Department of Education, the Department of Transportation, Enterprise Florida, Inc., the Florida Commission on Tourism and its direct-support organization, and Workforce Florida, Inc., for the purpose of implementing this act.

(3) Consult with Enterprise Florida, Inc., in developing a plan to retain, expand, attract, and create aerospace industry entities, public or private, which results in the creation of high-value-added businesses and jobs in this state.

(4) Create a marketing campaign to help attract, develop, and retain aerospace businesses, aerospace research and technology, and other related activities in this state. The campaign must be coordinated with any existing economic-development-promotion efforts in this state and may use private resources. Marketing strategies may include developing promotional materials, Internet and print advertising, public relations and media placement, trade show attendance, and other activities.

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(5) Develop, with input from Enterprise Florida, Inc., and the Florida Commission on Tourism and its direct-support organization, a public advertising program promoting aerospace-related activities, businesses, or any Space Florida projects.

(6) Develop, with input from Enterprise Florida, Inc., a plan to finance aerospace businesses. The plan may include the following activities:

(a) Assembling, publishing, and disseminating information concerning financing opportunities and techniques for aerospace projects, programs, and activities; sources of public and private aerospace financing assistance; and sources of aerospace-related financing.

(b) Organizing, hosting, and participating in seminars and other forums designed to disseminate information and technical assistance regarding aerospace-related financing.

(c) Coordinating with programs and goals of the Department of Defense, the National Aeronautics and Space Administration, the Export-Import Bank of the United States, the International Trade Administration of the United States Department of Commerce, the Foreign Credit Insurance Association, and other private and public programs and organizations, domestic and foreign.

(d) Establishing a network of contacts among those domestic and foreign public and private organizations that provide information, technical assistance, and financial support to the aerospace industry.

(7) Carry out its responsibilities for spaceport operations by:

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606        (a) Seeking federal support and developing partnerships to  
607 renew and upgrade the infrastructure and technologies at the  
608 Cape Canaveral Air Force Station, the John F. Kennedy Space  
609 Center, and the Eastern Range that will enhance space and  
610 military programs of the Federal Government, and improve access  
611 for commercial launch activities.

612        (b) Supporting federal efforts to clarify roles and  
613 responsibilities of federal agencies, and eliminating  
614 duplicative federal rules and policies, in an effort to  
615 streamline access for commercial launch users.

616        (c) Pursuing the development of additional commercial  
617 spaceports in the state through a competitive request for  
618 proposals in partnership with counties or municipalities, the  
619 Federal Government, or private entities.

620        (d) Promoting and facilitating launch activity within the  
621 state by supporting and assisting commercial launch operators in  
622 completing and submitting required documentation and gaining  
623 approvals and authorization from the required federal agencies  
624 for launching from Florida.

625        (e) Consulting, as necessary, with the appropriate  
626 federal, state, and local authorities, including the National  
627 Aeronautics and Space Administration, the Federal Aviation  
628 Administration, the Department of Defense, the Department of  
629 Transportation, the Florida National Guard, and industry on all  
630 aspects of establishing and operating spaceport infrastructure  
631 and related facilities within the state.

632        (8) Carry out its responsibility for research and  
633 development by:

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634        (a) Contracting for the operations of the state's Space  
635 Life Sciences Laboratory.

636        (b) Working in collaboration with one or more universities  
637 and other public or private entities to develop a proposal for a  
638 Center of Excellence for Aerospace that will foster and promote  
639 the research necessary to develop commercially promising,  
640 advanced, and innovative science and technology and will  
641 transfer those discoveries to the commercial sector.

642        (9) Carry out its responsibility for workforce  
643 development, with input from Workforce Florida, Inc., community  
644 colleges, colleges, public and private universities, and other  
645 public and private partners to develop a plan to retain, train,  
646 and retrain workers, from entry-level skills training through to  
647 technician-level, and 4-year degrees and higher, with the skills  
648 most relevant to aerospace employers.

649        (10) Carry out its responsibility for creating innovative  
650 education programs by funding programs developed in conjunction  
651 with the Department of Education that target grades K-20 in an  
652 effort to promote mathematics and science education programs,  
653 which may include the Florida-NASA Matching Grant Program,  
654 aerospace-focused education programs for teachers, education-  
655 oriented microgravity flight programs for teachers and students,  
656 and Internet-based aerospace education. Funds collected pursuant  
657 to s. 212.20(6)(d) and any in-kind or private-sector  
658 contribution may be used to carry out innovative education  
659 programs. In its annual report, Space Florida shall include, at  
660 a minimum, a description of programs funded, the number of  
661 students served, and private-sector support.

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662        (11) Annually report on its performance with respect to  
663        its business plan, to include finance, spaceport operations,  
664        research and development, workforce development, and education.  
665        The report shall be submitted to the Governor, the President of  
666        the Senate, and the Speaker of the House of Representatives no  
667        later than September 1 for the prior fiscal year.

668        Section 7. Section 331.306, Florida Statutes, is amended  
669        to read:

670        331.306 Federal airspace notification.--In coordination  
671        with the Florida Department of Transportation, Space Florida ~~the~~  
672        ~~authority~~ shall develop and file the federal airspace  
673        notification required for priority airspace use.

674        Section 8. Section 331.308, Florida Statutes, is amended  
675        to read:

676        331.308 Board of directors ~~supervisors~~.--

677        (1) Space Florida shall be governed by a board of  
678        directors. Designees of appointed members do not have voting  
679        authority. The board of directors shall consist of the following  
680        members:

681        (a) The Governor or the Governor's designee.

682        (b) The Secretary of Transportation or the secretary's  
683        designee.

684        (c) The president of Workforce Florida, Inc., or the  
685        president's designee.

686        (d) The president of Enterprise Florida, Inc., or the  
687        president's designee.

688        (e) The president of the direct-support organization of  
689        the Florida Commission on Tourism or the president's designee.



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690        (f) The Commissioner of Education or the commissioner's  
691 designee.

692        (g) Eight members from the private sector, one of whom  
693 shall be a representative of organized labor, appointed by the  
694 Governor. In making these appointments, the Governor shall  
695 ensure that the composition of the board reflects the diversity  
696 of the aerospace industry community of this state and, to the  
697 greatest degree possible, that the composition of the board  
698 includes, but is not limited to, individuals representing the  
699 industries of business, finance, marketing, space, aerospace,  
700 aviation, defense, research and development, and education. The  
701 Governor shall also consider whether the current members of the  
702 board, together with potential appointees, reflect the racial,  
703 ethnic, and gender diversity, as well as the geographic  
704 distribution, of the population of the state.

705        (h) Two ex officio, nonvoting members, one of whom shall  
706 be a member of the Senate, selected by the President of the  
707 Senate, and one of whom shall be a member of the House of  
708 Representatives, selected by the Speaker of the House of  
709 Representatives.

710        (i) Six members from the private sector, three of whom  
711 shall be appointed by the President of the Senate and three of  
712 whom shall be appointed by the Speaker of the House of  
713 Representatives.

714        (2)(a) Vacancies on the board shall be filled for the  
715 unexpired term in the same manner as the original appointments  
716 to the board.

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(b) Each member of the board of directors shall serve for a term of 4 years, except that the initial terms shall be staggered.

1. The Governor shall appoint two members for a 1-year term, two members for 2-year terms, and three members for 4-year terms.

2. The President of the Senate and the Speaker of the House of Representatives shall each appoint one member for a 1-year term, one member for a 2-year term, and one member for a 4-year term.

(c) Any member is eligible for reappointment.

(3) Appointed members may be removed by the Governor for cause. Absence from three consecutive meetings without good cause shall result in automatic removal.

(4) All private sector members are subject to confirmation by the Senate at the next regular session of the Legislature.

(5) The Governor shall serve as chair of the board of directors. The board of directors shall biennially elect one of its private sector members as vice chair to serve in the absence of the Governor and to perform such other duties as may be designated. The president shall keep a record of the proceedings of the board of directors and shall be the custodian of all books, documents, and papers filed with the board of directors, the minutes of the board of directors, and the official seal of Space Florida.

(6) The board of directors shall meet at least four times each year, upon the call of the chair, at the request of the vice chair, or at the request of a majority of the membership. A

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745 majority of the total number of current voting directors shall  
746 constitute a quorum. The board of directors may take official  
747 action by a majority vote of the members present at any meeting  
748 at which a quorum is present.

749 (7) Members of the board of directors shall serve without  
750 compensation, but members, the president, and staff may be  
751 reimbursed for all reasonable, necessary, and actual expenses,  
752 as determined by the board of directors of Space Florida  
753 pursuant to s. 112.061.

754 (8) Each member of the board of directors of Space Florida  
755 who is not otherwise required to file financial disclosure  
756 pursuant to s. 8, Art. II of the State Constitution or s.  
757 112.3144, shall file disclosure of financial interests pursuant  
758 to s. 112.3145.

759 (9) Each member of the board of directors of Space Florida  
760 must be a resident of this state. There is created within the  
761 Florida Space Authority a board of supervisors consisting of  
762 eight regular members, who shall be appointed by the Governor,  
763 and two ex officio nonvoting members, one of whom shall be a  
764 state senator selected by the President of the Senate and one of  
765 whom shall be a state representative selected by the Speaker of  
766 the House of Representatives. The Lieutenant Governor, who is  
767 the state's space policy leader, shall serve as chair of the  
768 board of supervisors, and shall cast the deciding vote if the  
769 votes of the eight regular members result in a tie. The board  
770 shall elect a vice chair to preside in the absence of the  
771 Lieutenant Governor and to perform such other duties as may be  
772 designated. All regular members shall be subject to confirmation

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773 ~~by the Senate at the next regular session of the Legislature.~~  
774 ~~Existing board members are not prohibited from reappointment.~~  
775 ~~Each of the regular board members must be a resident of the~~  
776 ~~state and must have experience in the aerospace or commercial~~  
777 ~~space industry or in finance or have other significant relevant~~  
778 ~~experience. A private sector legal entity may not have more than~~  
779 ~~one person serving on the board at any one time. One regular~~  
780 ~~member shall represent organized labor interests, one regular~~  
781 ~~member shall represent minority interests, and four regular~~  
782 ~~members must represent space industry, at least one of whom must~~  
783 ~~also be from a small business, as defined in s. 288.703. For the~~  
784 ~~purpose of this section, "space industry" includes private~~  
785 ~~sector entities engaged in space flight business, as defined in~~  
786 ~~s. 212.031, research and technology development of space based~~  
787 ~~products and services, space station commercialization,~~  
788 ~~development of spaceport and range technology, remote sensing~~  
789 ~~products and services, space biotechnology, measurement and~~  
790 ~~calibration of space assets, space related software and~~  
791 ~~information technology development, design and architecture of~~  
792 ~~space based assets and facilities for manufacturing and other~~  
793 ~~purposes, space related nanotechnology, space tourism, and other~~  
794 ~~commercial enterprises utilizing uniquely space based~~  
795 ~~capabilities.~~

796 ~~(2) Each regular member shall serve a term of 4 years or~~  
797 ~~until a successor is appointed and qualified. The term of each~~  
798 ~~such member shall be construed to commence on the date of~~  
799 ~~appointment and to terminate on June 30 of the year of the end~~

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800 ~~of the term. Appointment to the board shall not preclude any~~  
801 ~~such member from holding any other private or public position.~~

802 ~~(3) The ex officio nonvoting legislative members shall~~  
803 ~~serve on the board for 2 year terms.~~

804 ~~(4) Any vacancy on the board shall be filled for the~~  
805 ~~balance of the unexpired term.~~

806 ~~(5) The board shall appoint an executive director.~~  
807 ~~Meetings shall be held quarterly or more frequently at the call~~  
808 ~~of the chair. A majority of the regular members of the board~~  
809 ~~shall constitute a quorum, and a majority vote of such members~~  
810 ~~present is necessary for any action taken by the board.~~

811 ~~(6) The Governor has the authority to remove from the~~  
812 ~~board any regular member in the manner and for cause as defined~~  
813 ~~by the laws of this state and applicable to situations that may~~  
814 ~~arise before the board. Unless excused by the chair of the~~  
815 ~~board, a regular member's absence from two or more consecutive~~  
816 ~~board meetings creates a vacancy in the office to which the~~  
817 ~~member was appointed.~~

818 Section 9. Section 331.309, Florida Statutes, is amended  
819 to read:

820 331.309 Treasurer; depositories; fiscal agent.--

821 (1) The board shall designate an individual who is a  
822 resident of the state, or a qualified public depository as  
823 defined in s. 280.02, as treasurer of Space Florida the  
824 ~~authority~~, who shall have charge of the funds of Space Florida  
825 ~~the authority~~. Such funds shall be disbursed only upon the order  
826 of or pursuant to the resolution of the board by warrant, check,  
827 authorization, or direct deposit pursuant to s. 215.85, signed

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828 or authorized by the treasurer or his or her representative or  
829 by such other persons as may be authorized by the board. The  
830 board may give the treasurer such other or additional powers and  
831 duties as the board may deem appropriate and shall establish the  
832 treasurer's compensation. The board may require the treasurer to  
833 give a bond in such amount, on such terms, and with such  
834 sureties as may be deemed satisfactory to the board to secure  
835 the performance by the treasurer of his or her powers and  
836 duties. The board shall audit or have audited the books of the  
837 treasurer at least once a year.

838 (2) The board is authorized to select as depositories in  
839 which the funds of the board and of Space Florida ~~the authority~~  
840 shall be deposited any qualified public depository as defined in  
841 s. 280.02, upon such terms and conditions as to the payment of  
842 interest by such depository upon the funds so deposited as the  
843 board may deem just and reasonable. ~~Funds of the authority may~~  
844 ~~also be deposited with the Florida Commercial Space Financing~~  
845 ~~Corporation created by s. 331.407.~~ The funds of Space Florida  
846 ~~the authority~~ may be kept in or removed from the State Treasury  
847 upon written notification from the chair of the board to the  
848 Chief Financial Officer.

849 (3) The board may employ a fiscal agent, who shall be  
850 either a resident of the state or a corporation organized under  
851 the laws of this or any other state and authorized by such laws  
852 to act as such fiscal agent in the state.

853 Section 10. Section 331.310, Florida Statutes, is amended  
854 to read:

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855           331.310 Powers and duties of the board of directors  
856 ~~supervisors. -- Except as otherwise provided in this act, all of~~  
857 ~~the powers and duties of the authority shall be exercised by and~~  
858 ~~through the board of supervisors, including the power and duty~~  
859 ~~to:~~

860           (1) The board of directors may: ~~Adopt bylaws, rules,~~  
861 ~~resolutions, and orders prescribing the powers, duties, and~~  
862 ~~functions of the officers of the authority, the conduct of the~~  
863 ~~business of the authority, the maintenance of records, and the~~  
864 ~~form of all documents and records of the authority. The board~~  
865 ~~may adopt administrative rules and regulations with respect to~~  
866 ~~any of the projects of the authority, with notice and public~~  
867 ~~hearing.~~

868           ~~(2) Maintain an executive office and authority offices in~~  
869 ~~close proximity to Kennedy Space Center.~~

870           (a) (3) Enter, and authorize any agent or employee of Space  
871 Florida ~~the authority~~ to enter, upon any lands, waters, and  
872 premises, upon giving reasonable notice and due process to the  
873 land owner, for the purposes of making surveys, soundings,  
874 drillings, appraisals, and examinations necessary to perform its  
875 duties and functions. Any such entry shall not be deemed a  
876 trespass or an entry that would constitute a taking in an  
877 eminent domain proceeding. Space Florida ~~The authority~~ shall  
878 make reimbursement for any actual damages to such lands, waters,  
879 and premises as a result of such activity.

880           (b) (4) Execute all contracts and other documents, adopt  
881 all proceedings, and perform all acts determined by the board to  
882 be necessary or desirable to carry out the purposes of this act.

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883 The board may authorize one or more members of the board to  
884 execute contracts and other documents on behalf of the board or  
885 Space Florida ~~the authority~~.

886 (c) ~~(5)~~ Establish and create such departments, committees,  
887 or other entities ~~agencies~~ as from time to time the board may  
888 deem necessary or desirable in the performance of any acts or  
889 other things necessary to the exercise of the powers provided in  
890 this act, and delegate to such departments, boards, or other  
891 agencies such administrative duties and other powers as the  
892 board may deem necessary or desirable.

893 ~~(6) Appoint a person to act as executive director of the~~  
894 ~~authority, having such official title, functions, duties,~~  
895 ~~powers, and salary as the board may prescribe.~~

896 (d) ~~(7)~~ Examine, and authorize any officer or agent of  
897 Space Florida ~~the authority~~ to examine, the county tax rolls  
898 with respect to the assessed valuation of the real and personal  
899 property within any spaceport territory.

900 (e) ~~(8)~~ Engage in the planning and implementation of space-  
901 related economic and educational development within the state.

902 (f) Provide the strategic direction for the aerospace-  
903 related research priorities of the state and its aerospace-  
904 related businesses, the scope of research projects for Space  
905 Florida, and the timeframe for completion of the projects.

906 (g) ~~(9)~~ Execute intergovernmental agreements and  
907 development agreements consistent with prevailing statutory  
908 provisions, including, but not limited to, special benefits or  
909 tax increment financing initiatives.



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910        (h) Finance aerospace business development projects or  
911 initiatives using the funds collected pursuant to s.  
912 212.20(6)(d).

913        (i)~~(10)~~ Establish reserve funds for future board  
914 operations.

915        (j)~~(11)~~ Adopt rules pursuant to chapter 120 to carry out  
916 the purposes of this act.

917        (2) The board of directors shall:

918        (a) Adopt bylaws, rules, resolutions, and orders  
919 prescribing the powers, duties, and functions of Space Florida  
920 to conduct the business of Space Florida, the maintenance of  
921 records, and the form of all documents and records of Space  
922 Florida. The board may adopt rules with respect to any of the  
923 projects of Space Florida with notice and a public hearing.

924        (b) Maintain an executive office and Space Florida offices  
925 in close proximity to the John F. Kennedy Space Center.

926        (c) Appoint a person to act as the president of Space  
927 Florida, having such official title, functions, duties, powers,  
928 and salary as the board may prescribe.

929        (d)~~(12)~~ Abide by all applicable federal labor laws in the  
930 construction and day-to-day operations of Space Florida ~~the~~  
931 ~~authority~~ and any spaceport. Further, the board shall establish,  
932 by rule and regulation, pursuant to chapter 120, policies and  
933 procedures for the construction and operation of Space Florida  
934 ~~the authority~~ and any spaceport. The said policies and  
935 procedures shall be such that when Space Florida ~~the authority~~  
936 expends federal funds for construction or operation of any  
937 spaceport project, Space Florida ~~the authority~~ will be subject

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938 to the federal labor laws observed at the Kennedy Space Center  
939 and Cape Canaveral Air Force Station, Florida, applicable as a  
940 result of such federal expenditures.

941 (e) ~~(13)~~ Prepare an annual report of operations. The said  
942 report shall include, but not be limited to, a balance sheet, an  
943 income statement, a statement of changes in financial position,  
944 a reconciliation of changes in equity accounts, a summary of  
945 significant accounting principles, the auditor's report, a  
946 summary of the status of existing and proposed bonding projects,  
947 comments from management about the year's business, and  
948 prospects for the next year, which shall be submitted each year  
949 by December 31 ~~November 30~~ to the Governor, the President of the  
950 Senate, the Speaker of the House of Representatives, the  
951 minority leader of the Senate, and the minority leader of the  
952 House of Representatives.

953 (f) Establish a personnel management system for hiring  
954 employees and establishing employee's benefit packages.  
955 Personnel of Space Florida are not state employees.

956 ~~(14) Change the name of the authority.~~

957 Section 11. Section 331.3101, Florida Statutes, is amended  
958 to read:

959 331.3101 Space Florida ~~Space Authority~~; travel and  
960 entertainment expenses.--

961 (1) Notwithstanding the provisions of s. 112.061, Space  
962 Florida ~~the authority~~ shall adopt rules by which it may make  
963 expenditures by advancement or reimbursement, or a combination  
964 thereof, to Space Florida ~~authority~~ officers and employees;  
965 reimburse business clients, guests, and authorized persons as

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966 defined in s. 112.061(2)(e); and make direct payments to third-  
967 party vendors:

968       (a) For travel expenses of such business clients, guests,  
969 and authorized persons incurred by Space Florida ~~the authority~~  
970 in connection with the performance of its statutory duties, and  
971 for travel expenses incurred by state officials and state  
972 employees while accompanying such business clients, guests, or  
973 authorized persons or when authorized by the board or its  
974 designee.

975       (b) For entertainment expenses of such guests, business  
976 clients, and authorized persons incurred by Space Florida ~~the~~  
977 ~~authority~~ in connection with the performance of its statutory  
978 duties, and for entertainment expenses incurred for Space  
979 Florida ~~authority~~ officials and employees when such expenses are  
980 incurred while in the physical presence of such business  
981 clients, guests, or authorized persons.

982       (2) The rules shall be subject to approval by the Chief  
983 Financial Officer before adoption ~~prior to promulgation~~. The  
984 rules shall require the submission of paid receipts, or other  
985 proof prescribed by the Chief Financial Officer, with any claim  
986 for reimbursement, and shall require, as a condition for any  
987 advancement, an agreement to submit paid receipts or other proof  
988 and to refund any unused portion of the advancement within 15  
989 days after the expense is incurred or, if the advancement is  
990 made in connection with travel, within 15 days after completion  
991 of the travel. However, with respect to an advancement made  
992 solely for travel expenses, the rules may allow paid receipts or  
993 other proof to be submitted, and any unused portion of the

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994 advancement to be refunded, within 30 days after completion of  
995 the travel.

996 (3) An annual report shall be made to the Legislature not  
997 later than September 1 ~~November 30~~ of each year for the previous  
998 fiscal year, which shall consist of a synopsis concisely  
999 summarizing all travel, entertainment, and incidental expenses  
1000 incurred within the United States and, separately, all travel,  
1001 entertainment, and incidental expenses incurred outside the  
1002 United States.

1003 (4) A ~~No~~ claim submitted under this section is not ~~shall~~  
1004 be required to be sworn to before a notary public or other  
1005 officer authorized to administer oaths, but any claim authorized  
1006 or required to be made under any provision of this section must  
1007 ~~shall~~ contain a statement that the expenses were actually  
1008 incurred as necessary travel or entertainment expenses in the  
1009 performance of official duties of Space Florida ~~the authority~~  
1010 and shall be verified by written declaration that it is true and  
1011 correct as to every material matter. Any person who willfully  
1012 makes and subscribes to any such claim which the person does not  
1013 believe to be true and correct as to every material matter or  
1014 who willfully aids or assists in, or procures, counsels, or  
1015 advises, the preparation or presentation of a claim pursuant to  
1016 this section, which claim is fraudulent or false as to any  
1017 material matter, whether or not such falsity or fraud is with  
1018 the knowledge or consent of the person authorized or required to  
1019 present such claim, commits a misdemeanor of the second degree,  
1020 punishable as provided in s. 775.082 or s. 775.083. Whoever  
1021 receives an advancement or reimbursement by means of a false

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claim is civilly liable, in the amount of the overpayment, for the reimbursement of the public fund from which the claim was paid.

Section 12. Section 331.311, Florida Statutes, is amended to read:

331.311 Exercise by Space Florida ~~authority~~ of its powers within municipalities and other political subdivisions.--Space Florida may ~~The authority shall have the power to~~ exercise any of its rights, powers, privileges, and authority in any and all portions of any spaceport territory lying within the boundaries of any municipal corporation or other political subdivision, heretofore or hereafter created or organized, whose boundaries lie wholly or partly within the geographical limits of the spaceport territory, to the same extent and in the same manner as in areas of the spaceport territory not incorporated as part of a municipality or other political subdivision. With respect to any municipal corporation or other political subdivision whose boundaries lie partly within and partly without the geographical limits of the spaceport territory, Space Florida may ~~the authority shall have the power to~~ exercise its rights, powers, privileges, and authority only within the portion of the ~~such~~ municipal corporation or other political subdivision lying within the boundaries of the spaceport territory.

Section 13. Section 331.312, Florida Statutes, is amended to read:

331.312 Furnishing facilities and services within the spaceport territory.--Space Florida may ~~The authority shall have the power to~~ construct, develop, create, maintain, and operate

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1050 its projects within the geographical limits of the spaceport  
1051 territory, including any portions of the spaceport territory  
1052 located inside the boundaries of any incorporated municipality  
1053 or other political subdivision, and to offer, supply, and  
1054 furnish the facilities and services provided for in this act to,  
1055 and to establish and collect fees, rentals, and other charges  
1056 from, persons, public or private, within the geographical limits  
1057 of the spaceport territory and for the use of Space Florida ~~the~~  
1058 ~~authority~~ itself.

1059       Section 14. Section 331.313, Florida Statutes, is amended  
1060 to read:

1061       331.313 Power of Space Florida ~~the authority~~ with respect  
1062 to roads.--Within the territorial limits of any spaceport  
1063 territory, Space Florida may ~~the authority has the right to~~  
1064 acquire, through purchase or interagency agreement, or as  
1065 otherwise provided in law, and to construct, control, and  
1066 maintain, roads deemed necessary by Space Florida ~~the authority~~  
1067 and connections thereto and extensions thereof now or hereafter  
1068 acquired, constructed, or maintained in accordance with  
1069 established highway safety standards; provided that, in the  
1070 event a road being addressed by Space Florida ~~the authority~~ is  
1071 owned by another agency or jurisdiction, Space Florida ~~the~~  
1072 ~~authority, before~~ prior to proceeding with the proposed project  
1073 or work activity, shall have either coordinated the desired work  
1074 with the owning agency or jurisdiction or shall have  
1075 successfully executed an interagency agreement with the owning  
1076 agency or jurisdiction.

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1077           Section 15.   Section 331.315, Florida Statutes, is amended  
1078 to read:

1079           331.315   Maintenance of projects across rights-of-  
1080 way.--Space Florida may ~~The authority shall have the right to~~  
1081 construct and operate its projects in, along, or under any  
1082 streets, alleys, highways, or other public places or ways, and  
1083 across any drain, ditch, canal, floodway, holding basin,  
1084 excavation, railroad right-of-way, track, grade, fill, or cut;  
1085 ~~provided,~~ however, Space Florida shall pay that just  
1086 compensation, including fees, ~~shall be paid by the authority~~ for  
1087 any damages arising from ~~or private property taken by~~ the  
1088 exercise of such power.

1089           Section 16.   Section 331.316, Florida Statutes, is amended  
1090 to read:

1091           331.316   Rates, fees, rentals, tolls, fares, and charges;  
1092 procedure for adoption and modification; minimum revenue  
1093 requirements.--

1094           (1) To recover the costs of the spaceport facility or  
1095 system, Space Florida may ~~the authority shall have the power to~~  
1096 prescribe, fix, establish, and collect rates, fees, rentals,  
1097 tolls, fares, or other charges (hereinafter referred to as  
1098 "revenues"), and to revise the same from time to time, for the  
1099 facilities and services furnished or to be furnished by Space  
1100 Florida ~~the authority~~ and the spaceport, including, but not  
1101 limited to, launch pads, ranges, payload assembly and processing  
1102 facilities, visitor and tourist facilities, transportation  
1103 facilities, and parking and other related facilities, and may  
1104 ~~shall have the power to~~ provide for reasonable penalties against

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1105 any user or property for any such rates, fees, rentals, tolls,  
1106 fares, or other charges that are delinquent.

1107       (2) The board may ~~shall have the power to~~ enter into  
1108 contracts for the use of the projects of Space Florida ~~the~~  
1109 ~~authority~~ and for the services and facilities furnished or to be  
1110 furnished by Space Florida ~~the authority~~, including, but not  
1111 limited to, launch services, payload assembly and processing,  
1112 and other aerospace-related ~~space-related~~ services, for such  
1113 consideration and on such other terms and conditions as the  
1114 board may approve. Such contracts, and revenues or service  
1115 charges received or to be received by Space Florida ~~the~~  
1116 ~~authority~~ thereunder, may be pledged as security for any of the  
1117 bonds of Space Florida ~~the authority~~.

1118       Section 17. Section 331.317, Florida Statutes, is amended  
1119 to read:

1120       331.317 Recovery of delinquent charges.--In the event that  
1121 any of the rates, fees, rentals, tolls, fares, other charges, or  
1122 delinquent penalties shall not be paid as and when due and shall  
1123 be in default for 30 days or more, the unpaid balance thereof  
1124 and all interest accrued thereon, together with attorney's fees  
1125 and costs, may be recovered by Space Florida ~~the authority~~ in a  
1126 civil action.

1127       Section 18. Section 331.318, Florida Statutes, is amended  
1128 to read:

1129       331.318 Discontinuance of service.--In the event that the  
1130 rates, fees, rentals, tolls, fares, or other charges for the  
1131 services and facilities of any project are not paid when due,  
1132 the board may ~~shall have the power to~~ discontinue and shut off



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1133 the same until such rates, fees, rentals, tolls, fares, or other  
1134 charges, including interest, penalties, and charges for the  
1135 shutting off and discontinuance and the restoration of such  
1136 services and facilities, are fully paid. Such delinquent rates,  
1137 fees, rentals, tolls, fares, or other charges, together with  
1138 interest, penalties, and charges for the shutting off and  
1139 discontinuance and the restoration of such services and  
1140 facilities, and reasonable attorney's fees and other expenses,  
1141 may be recovered by Space Florida ~~the authority~~ by suit in any  
1142 court of competent jurisdiction. Space Florida ~~The authority~~ may  
1143 also enforce payment of such delinquent rates, fees, rentals,  
1144 tolls, fares, or other charges by any other lawful method of  
1145 enforcement.

1146       Section 19.   Section 331.319, Florida Statutes, is amended  
1147 to read:

1148       331.319   Comprehensive planning; building and safety  
1149 codes.--The board of directors ~~may supervisors shall have the~~  
1150 ~~power to~~:

1151       (1)   Adopt, and from time to time review, amend,  
1152 supplement, or repeal, a comprehensive general plan for the  
1153 physical development of the area within the spaceport territory  
1154 in accordance with the objectives and purposes of this act and  
1155 consistent with the comprehensive plans of the applicable county  
1156 or counties and municipality or municipalities adopted pursuant  
1157 to the Local Government Comprehensive Planning and Land  
1158 Development Regulation Act, part II of chapter 163.

1159       (2)   Prohibit within the spaceport territory the  
1160 construction, alteration, repair, removal, or demolition, or the

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1161 commencement of the construction, alteration, repair (except  
1162 emergency repairs), removal, or demolition, of any building or  
1163 structure, including, but not by way of limitation, public  
1164 utility poles, lines, pipes, and facilities, without first  
1165 obtaining a permit from the board or such other officer or  
1166 agency as the board may designate, and to prescribe the  
1167 procedure with respect to the obtaining of such permit.

1168       Section 20.   Section 331.320, Florida Statutes, is amended  
1169 to read:

1170       331.320   Additional powers of board.--The board of  
1171 directors may ~~shall have the power~~ within any spaceport  
1172 territory ~~to~~:

1173       (1)   Adopt regulations to prohibit or control the pollution  
1174 of air and water, and require certain location and placement of  
1175 electrical power, telephone, and other utility lines, cables,  
1176 pipes, and ducts.

1177       (2)   Divide the spaceport territory into zones or districts  
1178 of such number, shape, and area as the board may deem best  
1179 suited to carry out the purposes of this act, and within and for  
1180 each such district make regulations and restrictions as provided  
1181 for in subsection (1).

1182       Section 21.   Section 331.321, Florida Statutes, is amended  
1183 to read:

1184       331.321   Federal and other funds and aid.--Space Florida  
1185 may ~~The authority is authorized to~~ accept, receive, and receipt  
1186 for federal moneys, property, and other moneys or properties,  
1187 either public or private, for the acquisition, planning,  
1188 operation, construction, enlargement, improvement, maintenance,

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1189 equipment, or development of programs, facilities, and sites  
1190 therefor, and ~~to~~ comply with the provisions of the laws of the  
1191 United States and any rules and regulations made thereunder for  
1192 the expenditure of federal moneys.

1193       Section 22.   Section 331.322, Florida Statutes, is amended  
1194 to read:

1195       331.322   Agreements with municipalities within any  
1196 spaceport territory.--The board of directors and the governing  
1197 body or bodies of any one or more municipalities located wholly  
1198 or partly within any spaceport territory, whether now in  
1199 existence or hereafter created, may ~~are authorized to~~ enter into  
1200 and carry into effect contracts and agreements relating to the  
1201 common powers, duties, and functions of the board and other  
1202 officers, agents, and employees of Space Florida ~~the authority~~,  
1203 and the respective governing body or bodies of one or more such  
1204 municipalities, and their respective officers, agents, and  
1205 employees, to the end that there may be effective cooperation  
1206 between and coordination of the efforts of such municipality or  
1207 municipalities and Space Florida ~~the authority~~ in discharging  
1208 their common functions, powers, and duties and in rendering  
1209 services to the respective residents and property owners of such  
1210 municipality or municipalities and Space Florida ~~the authority~~.  
1211 The board and the governing body or bodies of one or more such  
1212 municipalities are further authorized to enter into and carry  
1213 into effect contracts and agreements for the performance of any  
1214 of their common functions, powers, and duties by a central  
1215 agency or common agent of the contracting parties.

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1216           Section 23.   Section 331.323, Florida Statutes, is amended  
1217 to read:

1218           331.323   Cooperative agreements with the state, counties,  
1219 and municipalities.--

1220           (1)   The state and the counties, municipalities, and other  
1221 political subdivisions, public bodies, and agencies thereof, or  
1222 any of them, whether now existing or hereafter created, are  
1223 authorized to aid and cooperate with Space Florida ~~the authority~~  
1224 in carrying out any of the purposes and projects of Space  
1225 Florida ~~the authority~~, to enter into cooperative agreements with  
1226 Space Florida ~~the authority~~, to provide in any such cooperative  
1227 agreement for the making of loans, gifts, grants, or  
1228 contributions to Space Florida ~~the authority~~ and the granting  
1229 and conveyance to Space Florida ~~the authority~~ of real or  
1230 personal property of any kind or nature, or any interest  
1231 therein, for the carrying out of the purpose and projects of  
1232 Space Florida ~~the authority~~; to covenant in any such cooperative  
1233 agreement to pay all or any part of the costs of acquisition,  
1234 planning, development, construction, reconstruction, extension,  
1235 improvement, operation, and maintenance of any projects of Space  
1236 Florida ~~the authority~~; and to pay all or any part of the  
1237 principal and interest on any bonds of Space Florida ~~the~~  
1238 ~~authority~~.

1239           (2)   The state and the counties, municipalities, and other  
1240 political subdivisions, public bodies, and agencies thereof, or  
1241 any of them, whether now existing or hereafter created, and  
1242 Space Florida ~~the authority created by this act~~, are further  
1243 authorized to enter into cooperative agreements to provide for

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1244 the furnishing by Space Florida ~~the authority~~ to the state or  
1245 any county, municipality, or other political subdivision, public  
1246 body, or agency thereof of any of the facilities and services of  
1247 Space Florida ~~the authority~~, or by the state or any county,  
1248 municipality, or other political subdivision, public body, or  
1249 agency thereof to Space Florida ~~the authority~~ and to persons  
1250 within the spaceport territory of facilities and services of the  
1251 type that Space Florida ~~the authority~~ is authorized to furnish  
1252 or undertake, or such other facilities and services as may be  
1253 determined necessary or desirable by the board for the carrying  
1254 out of the purposes of this act. Without limitation of the  
1255 foregoing, such cooperative agreements may provide for the  
1256 furnishing by any county, municipality, or other political  
1257 subdivision of fire and police protection for Space Florida ~~the~~  
1258 ~~authority~~ and persons and property within Space Florida ~~the~~  
1259 ~~authority~~, and for the providing to Space Florida ~~the authority~~  
1260 of any services deemed necessary or desirable by the board for  
1261 the proper functioning of Space Florida ~~the authority~~.

1262       (3) Without limitation of the foregoing, the board may  
1263 undertake and finance any of the projects of Space Florida ~~the~~  
1264 ~~authority~~, in whole or in part, jointly with any municipality or  
1265 municipalities, now existing or hereafter created, or in any  
1266 other manner combine the projects of Space Florida ~~the authority~~  
1267 with the projects of such municipality or municipalities.

1268       (4) Any agreement of the type authorized by this section  
1269 may be made and entered into under ~~pursuant to~~ this act for such  
1270 time or times, not exceeding 40 years.

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1271           Section 24.   Section 331.324, Florida Statutes, is amended  
1272 to read:

1273           331.324   Contracts, grants, and contributions.--Space  
1274 Florida may ~~The authority shall have the power to~~ make and enter  
1275 all contracts and agreements necessary or incidental to the  
1276 performance of the functions of Space Florida ~~the authority~~ and  
1277 the execution of its powers, and to contract with, and to accept  
1278 and receive grants or loans of money, material, or property  
1279 from, any person, private or public, as the board shall  
1280 determine to be necessary or desirable to carry out the purposes  
1281 of this act, and in connection with any such contract, grant, or  
1282 loan to stipulate and agree to such covenants, terms, and  
1283 conditions as the board shall deem appropriate.

1284           Section 25.   Section 331.325, Florida Statutes, is amended  
1285 to read:

1286           331.325   Environmental permits.--Space Florida ~~The~~  
1287 ~~authority~~ shall obtain required environmental permits in  
1288 accordance with federal and state law and shall comply with the  
1289 provisions of chapter 380.

1290           Section 26.   Section 331.326, Florida Statutes, is amended  
1291 to read:

1292           331.326   Information relating to trade secrets  
1293 confidential.--The records of Space Florida ~~the authority~~  
1294 regarding matters encompassed by this act are public records  
1295 subject to the provisions of chapter 119. Any information held  
1296 by Space Florida ~~the authority~~ which is a trade secret, as  
1297 defined in s. 812.081, including trade secrets of Space Florida  
1298 ~~the authority~~, any spaceport user, or the space industry

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1299 business, is confidential and exempt from the provisions of s.  
1300 119.07(1) and s. 24(a), Art. I of the State Constitution and may  
1301 not be disclosed. If Space Florida ~~the authority~~ determines that  
1302 any information requested by the public will reveal a trade  
1303 secret, it shall, in writing, inform the person making the  
1304 request of that determination. The determination is a final  
1305 order as defined in s. 120.52. Any meeting or portion of a  
1306 meeting of Space Florida's ~~the authority's~~ board of ~~supervisors~~  
1307 is exempt from the provisions of s. 286.011 and s. 24(b), Art. I  
1308 of the State Constitution when the board is discussing trade  
1309 secrets. Any public record generated during the closed portions  
1310 of the ~~such~~ meetings, such as minutes, tape recordings, and  
1311 notes, is confidential and exempt from the provisions of s.  
1312 119.07(1) and s. 24(a), Art. I of the State Constitution.

1313 Section 27. Section 331.327, Florida Statutes, is amended  
1314 to read:

1315 331.327 Foreign trade zone.--Space Florida may ~~The~~  
1316 ~~authority shall have the power to~~ apply to the Federal  
1317 Government for a grant allowing the designation of any spaceport  
1318 territory as a foreign trade zone pursuant to ss. 288.36 and  
1319 288.37. However, the designation of any spaceport territory as a  
1320 foreign trade zone does ~~shall not be deemed to~~ authorize an  
1321 exemption from any tax imposed by the state or by any political  
1322 subdivision, agency, or instrumentality thereof.

1323 Section 28. Section 331.328, Florida Statutes, is amended  
1324 to read:

1325 331.328 Sovereign immunity.--Space Florida ~~The authority~~  
1326 shall be granted sovereign immunity in the same manner as the

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1327 state under the laws and Constitution of the State of Florida.  
1328 The state, by this section, hereby waives the sovereign immunity  
1329 granted to the same extent as waived by the state under state  
1330 law.

1331 Section 29. Section 331.329, Florida Statutes, is amended  
1332 to read:

1333 331.329 Changing boundary lines; annexation and exclusion  
1334 of lands; creation of municipalities within the geographical  
1335 limits of any spaceport territory; limitations on the furnishing  
1336 of services within annexed areas.--

1337 (1) The board of directors may at any time strike out or  
1338 correct the description of any land within or claimed to be  
1339 within the boundary lines of any spaceport territory upon the  
1340 written consent of the owners of all the land that would be  
1341 included or excluded from the boundary lines of any spaceport  
1342 territory or otherwise affected by the taking of such action,  
1343 and of the owners of not less than the majority in acreage of  
1344 all lands within any spaceport territory.

1345 (a) The board may enlarge the geographical limits of any  
1346 spaceport territory to include any lands not then within any  
1347 spaceport territory:

1348 1. Upon the written consent of the owners of all the land  
1349 to be included in any spaceport territory and of the owners of  
1350 not less than a majority in acreage of all the land then within  
1351 any spaceport territory; or

1352 2. By resolution of the board approved at a special  
1353 election called for such purpose, by vote of a majority of



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1354 freeholders residing within the area to be annexed and a  
1355 majority of freeholders residing within any spaceport territory.

1356 (b) The board of directors may contract the geographical  
1357 limits of any spaceport territory so as to exclude from any  
1358 spaceport territory any land then within any spaceport  
1359 territory:

1360 1. Upon the written consent of the owners of all the land  
1361 to be so excluded and of the owners of not less than a majority  
1362 in acreage of all the land then within any spaceport territory;  
1363 or

1364 2. By resolution of the board approved at a special  
1365 election called for such purpose, by vote of a majority of  
1366 freeholders residing within the area to be excluded and a  
1367 majority of the freeholders residing within any spaceport  
1368 territory.

1369 (2) Land, including property situated thereon, added to  
1370 any spaceport territory in the manner provided in subsection (1)  
1371 shall from the time of its inclusion within such spaceport  
1372 territory be subject to all assessments thereafter levied and  
1373 assessed on all other land or property of any spaceport  
1374 territory similarly situated. Land, including property situated  
1375 thereon, excluded from any spaceport territory in the manner  
1376 provided in subsection (1) shall from the date of such exclusion  
1377 be exempt from assessments thereafter imposed by Space Florida  
1378 ~~the authority~~ but shall not be exempt from assessments  
1379 theretofore levied or due with respect to such land or property,  
1380 or from subsequent installments of assessments theretofore  
1381 levied or assessed with respect thereto, and such assessments

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1382 may be enforced and collected by or on behalf of Space Florida  
1383 ~~the authority~~ in the same manner as if such land or property  
1384 continued to be within the geographical limits of any spaceport  
1385 territory.

1386       (3) In the event that the geographical limits of any  
1387 spaceport territory as set forth in s. 331.304 are revised so as  
1388 to include within any spaceport territory any areas not  
1389 presently contained within any spaceport territory, Space  
1390 Florida ~~may the authority shall~~ not engage in the business of  
1391 furnishing electric power for sale in such annexed area, unless  
1392 Space Florida ~~the authority~~ shall offer to purchase from any  
1393 person who is at the time engaged in the business of making,  
1394 generating, or distributing electricity for sale within such  
1395 annexed area, such portion of its electric plant and property  
1396 suitable and used for such business in connection therewith as  
1397 lies within the limits of such annexed area, in a manner  
1398 consistent with law.

1399       (4) Space Florida ~~The authority~~ shall designate new launch  
1400 pads outside the present designated spaceport territories by  
1401 statutory amendment of s. 331.304.

1402       Section 30. Section 331.331, Florida Statutes, is amended  
1403 to read:

1404       331.331 Revenue bonds.--

1405       (1) Revenue bonds issued by Space Florida ~~the authority~~  
1406 shall not be deemed revenue bonds issued by the state or its  
1407 agencies for purposes of s. 11, Art. VII of the State  
1408 Constitution and ss. 215.57-215.83. Space Florida ~~The authority~~  
1409 shall include in its annual report to the Governor and

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1410 Legislature, as provided in s. 331.310, a summary of the status  
1411 of existing and proposed bonding projects.

1412       (2) The issuance of revenue bonds may be secured by or  
1413 payable from the gross or net pledge of the revenues to be  
1414 derived from any project or combination of projects, from the  
1415 rates, fees, rentals, tolls, fares, or other charges to be  
1416 collected from the users of any project or projects; from any  
1417 revenue-producing undertaking or activity of Space Florida ~~the~~  
1418 ~~authority~~; or from any source of pledged security. Such bonds  
1419 shall not constitute an indebtedness of Space Florida ~~the~~  
1420 ~~authority~~ unless such bonds are additionally secured by the full  
1421 faith and credit of Space Florida ~~the authority~~. Bonds issued by  
1422 Space Florida ~~the authority~~ are not secured by the full faith  
1423 and credit of the State of Florida and do not constitute an  
1424 obligation, either general or special, thereof.

1425       (3) Any two or more projects may be combined and  
1426 consolidated into a single project, and may thereafter be  
1427 operated and maintained as a single project. The revenue bonds  
1428 authorized herein may be issued to finance any one or more such  
1429 projects separately, or to finance two or more such projects,  
1430 regardless whether or not such projects have been combined and  
1431 consolidated into a single project. If the board deems it  
1432 advisable, the proceedings authorizing such revenue bonds may  
1433 provide that Space Florida ~~the authority~~ may thereafter combine  
1434 the projects then being financed or theretofore financed with  
1435 other projects to be subsequently financed by Space Florida ~~the~~  
1436 ~~authority~~ shall be on a parity with the revenue bonds then being  
1437 issued, all on such terms, conditions, and limitations as shall

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1438 be provided, and may further provide that the revenues to be  
1439 derived from the subsequent projects shall at the time of the  
1440 issuance of such parity revenue bonds be also pledged to the  
1441 holders of any revenue bonds theretofore issued to finance the  
1442 revenue undertakings which are later combined with such  
1443 subsequent projects. Space Florida ~~The authority~~ may pledge for  
1444 the security of the revenue bonds a fixed amount, without regard  
1445 to any fixed proportion of the gross revenues of any project.

1446 Section 31. Section 331.333, Florida Statutes, is amended  
1447 to read:

1448 331.333 Refunding bonds.--Space Florida ~~The authority~~  
1449 through its board may ~~shall have the power to~~ issue bonds to  
1450 provide for the retirement or refunding of any bonds or  
1451 obligations of Space Florida ~~the authority~~ that at the time of  
1452 such issuance are or subsequently thereto become due and  
1453 payable, or that at the time of issuance have been called or are  
1454 or will be subject to call for redemption within 10 years  
1455 thereafter, or the surrender of which can be procured from the  
1456 holders thereof at prices satisfactory to the board. Refunding  
1457 bonds may be issued at any time when in the judgment of the  
1458 board such issuance will be advantageous to Space Florida ~~the~~  
1459 ~~authority~~. The provisions of this act pertaining to bonds of  
1460 Space Florida ~~the authority~~ shall, unless the context otherwise  
1461 requires, govern the issuance of refunding bonds, the form and  
1462 other details thereof, the rights of the holders thereof, and  
1463 the duties of the board with respect to the same.

1464 Section 32. Section 331.334, Florida Statutes, is amended  
1465 to read:

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1466            331.334   Pledging assessments and other revenues and  
1467 properties as additional security on bonds.--Space Florida ~~The~~  
1468 ~~authority~~ may pledge as additional security for the payment of  
1469 any of the bonds of Space Florida ~~the authority~~ its full faith  
1470 and credit, and provide that such bonds shall be payable as to  
1471 both principal and interest, and as to any reserve or other  
1472 funds provided therefor, to the full extent that any revenues as  
1473 defined in this act, assessments, or other funds, or any  
1474 combination thereof, pledged therefor are insufficient for the  
1475 full payment of the same, and provided further that no bonds  
1476 shall be issued to the payment of which the full faith and  
1477 credit of Space Florida ~~the authority~~ is pledged unless approved  
1478 at an election in the manner provided by law. Space Florida ~~The~~  
1479 ~~authority~~ by resolution of the board may also pledge as  
1480 additional security for said bonds the revenues from any project  
1481 of Space Florida ~~the authority~~, utility service, assessments,  
1482 and any other sources of revenue or funds, or any combination of  
1483 the foregoing, and may pledge or mortgage any of the properties,  
1484 rights, interest, or other assets of Space Florida ~~the~~  
1485 ~~authority~~. Bonds issued by Space Florida ~~the authority~~ are not  
1486 secured by the full faith and credit of the State of Florida and  
1487 do not constitute an obligation, either general or special,  
1488 thereof. The board may also provide with respect to any bonds of  
1489 Space Florida ~~the authority~~ that such bonds shall be payable, in  
1490 whole or in part, as to principal amount or interest, or both,  
1491 out of rates, fees, rentals, tolls, fares, or other charges  
1492 collected with respect to any of the projects of Space Florida  
1493 ~~the authority~~.

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1494           Section 33.   Section 331.335, Florida Statutes, is amended  
1495 to read:

1496           331.335   Lien of pledges.--All pledges of revenues and  
1497 assessments made pursuant to the provisions of this act shall be  
1498 valid and binding from the time when such pledges are made. All  
1499 such revenues and assessments so pledged and thereafter  
1500 collected shall immediately be subject to the lien of such  
1501 pledges without any physical delivery thereof or further action,  
1502 and the lien of such pledges shall be valid and binding as  
1503 against all parties having claims of any kind in tort, contract,  
1504 or otherwise against Space Florida ~~the authority~~, irrespective  
1505 of whether such parties have notice thereof.

1506           Section 34.   Section 331.336, Florida Statutes, is amended  
1507 to read:

1508           331.336   Issuance of bond anticipation notes.--In addition  
1509 to the other powers provided for in this act and not in  
1510 limitation thereof, Space Florida may ~~the authority shall have~~  
1511 ~~the power~~, at any time from time to time after the issuance of  
1512 any bonds of Space Florida ~~the authority shall~~ have been  
1513 authorized, ~~to~~ borrow money for the purposes for which such  
1514 bonds are to be issued in anticipation of the receipt of the  
1515 proceeds of the sale of such bonds and ~~to~~ issue bond  
1516 anticipation notes in a principal amount not in excess of the  
1517 authorized maximum amount of such bond issue. Such notes shall  
1518 be in such denomination or denominations, bear interest at such  
1519 rate or rates, mature at such time or times, be renewable for  
1520 such additional term or terms, and be in such form and executed  
1521 in such manner as the board shall prescribe. Such notes may be

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1522 sold at public sale, or if such notes shall be renewable notes,  
1523 may be exchanged for notes then outstanding on such terms as the  
1524 board shall determine. Such notes shall be paid from the  
1525 proceeds of such bonds when issued. The board may in its  
1526 discretion, in lieu of retiring the notes by means of bonds,  
1527 retire them by means of current revenues or from any assessments  
1528 levied for the payment of such bonds, but in such event a like  
1529 amount of the bonds authorized shall not be issued.

1530       Section 35.   Section 331.337, Florida Statutes, is amended  
1531 to read:

1532       331.337   Short-term borrowing.--Space Florida ~~The authority~~  
1533 at any time may obtain loans, in such amount and on such terms  
1534 and conditions as the board may approve, for the purpose of  
1535 paying any of the expenses of Space Florida ~~the authority~~ or any  
1536 costs incurred or that may be incurred in connection with any of  
1537 the projects of Space Florida ~~the authority~~, which loans shall  
1538 have such term or terms, be renewable for such term or terms,  
1539 bear interest at such rate or rates, and be payable from and  
1540 secured by a pledge of such funds, revenues, and assessments as  
1541 the board may determine. For the purpose of defraying such costs  
1542 and expenses, Space Florida ~~the authority~~ may issue negotiable  
1543 notes, warrants, or other evidences of debt signed on behalf of  
1544 Space Florida ~~the authority~~ by any one of the board, such notes  
1545 or other evidences of indebtedness to be payable at such time or  
1546 times, to bear interest at such rate or rates, and to be sold or  
1547 discounted at such price or prices and on such term or terms as  
1548 the board may deem advisable. The board ~~may shall have the right~~  
1549 ~~to~~ provide for the payment thereof by pledging the whole or any

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1550 part of the funds, revenues, and assessments of Space Florida  
1551 ~~the authority~~.

1552       Section 36.   Section 331.338, Florida Statutes, is amended  
1553 to read:

1554       331.338   Trust agreements.--In the discretion of the board,  
1555 any issue of bonds may be secured by a trust agreement by and  
1556 between Space Florida ~~the authority~~ and a corporate trustee  
1557 which may be any trust company or bank having the powers of a  
1558 trust company within or without the state. The resolution  
1559 authorizing the issuance of the bonds or such trust agreement  
1560 may pledge the revenues to be received from any projects of  
1561 Space Florida ~~the authority~~ and any other authorized moneys to  
1562 be used for the repayment of bonds, and may contain such  
1563 provisions for protecting and enforcing the rights and remedies  
1564 of the bondholders as the board may approve, including without  
1565 limitation covenants setting forth the duties of Space Florida  
1566 ~~the authority~~ in relation to the acquisition, planning,  
1567 development, construction, reconstruction, improvement,  
1568 maintenance, repair, operation, and insurance of any projects,  
1569 the fixing and revision of the rates, fees, rentals, tolls,  
1570 fares, and charges, and the custody, safeguarding, and  
1571 application of all moneys, and for the employment of consulting  
1572 engineers in connection with such acquisition, planning,  
1573 development, construction, reconstruction, improvement,  
1574 maintenance, repair, or operation. It shall be lawful for any  
1575 bank or trust company incorporated under the laws of the state  
1576 or the United States which may act as a depository of the  
1577 proceeds of bonds or of revenues to furnish such indemnifying

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1578 bonds or to pledge such securities as may be required by Space  
1579 Florida ~~the authority~~. Such resolution or trust agreement may  
1580 set forth the rights and remedies of the bondholders and of the  
1581 trustee, if any, and may restrict the individual right of action  
1582 by bondholders. The board may provide for the payment of the  
1583 proceeds of the sale of the bonds and the revenues of any  
1584 project to such officer, board, or depository as it may  
1585 designate for the custody thereof, and for the method of  
1586 disbursement thereof, with such safeguards and restrictions as  
1587 it may determine. All expenses incurred in carrying out the  
1588 provisions of such resolution or trust agreement may be treated  
1589 as part of the cost of the project to which such trust agreement  
1590 pertains.

1591       Section 37.   Section 331.339, Florida Statutes, is amended  
1592 to read:

1593       331.339   Sale of bonds.--Bonds may be sold in blocks or  
1594 installments at different times, or an entire issue or series  
1595 may be sold at one time. Bonds may only be sold at public sale  
1596 after being advertised and publicly noticed, unless Space  
1597 Florida ~~the authority~~ has previously complied with the  
1598 provisions of s. 218.385. Bonds may be sold or exchanged for  
1599 refunding bonds. Special assessment and revenue bonds may be  
1600 delivered as payment by Space Florida ~~the authority~~ of the  
1601 purchase price or lease of any project or part thereof, or a  
1602 combination of projects or parts thereof, or as the purchase  
1603 price of, or exchange for, any property, real, personal, or  
1604 mixed, including franchises, or services rendered by any  
1605 contractor, engineer, or other person, all at one time or in

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1606 | blocks from time to time, in such manner and upon such terms as  
1607 | the board in its discretion shall determine. The price or prices  
1608 | for any bonds sold, exchanged, or delivered may be:

1609 |       (1)   The money paid for the bonds.

1610 |       (2)   The principal amount, plus accrued interest to date of  
1611 | redemption or exchange, of outstanding obligations exchanged for  
1612 | refunding bonds.

1613 |       (3)   In the case of special assessment or revenue bonds,  
1614 | the amount of any indebtedness to contractors or other persons  
1615 | paid with such bonds, or the fair value of any properties  
1616 | exchanged for the bonds, as determined by the board.

1617 |       Section 38.   Section 331.340, Florida Statutes, is amended  
1618 | to read:

1619 |       331.340   Authorization and form of bonds.--Bonds may be  
1620 | authorized by resolution or resolutions of the board which shall  
1621 | be adopted by a majority of all of the members thereof then in  
1622 | office and present at the meeting at which the resolution or  
1623 | resolutions are adopted and shall be approved as provided in s.  
1624 | 331.305. The resolution or resolutions of the board may be  
1625 | adopted at the same meeting at which they are introduced, and  
1626 | shall be published and noticed. The board may by resolution  
1627 | authorize the issuance of bonds, fix the aggregate amount of  
1628 | bonds to be issued, the purpose or purposes for which the moneys  
1629 | derived therefrom shall be expended, the rate or rates of  
1630 | interest, the denomination of the bonds, whether or not the  
1631 | bonds are to be issued in one or more series, the date or dates  
1632 | thereof, the date or dates of maturity, which shall not exceed  
1633 | 40 years from their respective dates of issuance, the medium of

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1634 payment, the place or places within or without the state where  
1635 payment shall be made, registration privileges, redemption terms  
1636 and privileges (whether with or without premium), the manner of  
1637 execution, the form of the bonds including any interest coupons  
1638 to be attached thereto, the manner of execution of bonds and  
1639 coupons, and any and all other terms, covenants, and conditions  
1640 thereof, and the establishment of reserve or other funds. Such  
1641 authorizing resolution may further provide that such bonds may  
1642 be executed manually or by engraved, lithographed, or facsimile  
1643 signature, provided that where signatures are engraved,  
1644 lithographed, or facsimile no bond shall be valid unless  
1645 countersigned by a registrar or other officer designated by  
1646 appropriate resolution of the board. The seal of Space Florida  
1647 ~~the authority~~ may be affixed, lithographed, engraved, or  
1648 otherwise reproduced in facsimile on such bonds. In case any  
1649 officer whose signature or a facsimile of whose signature shall  
1650 appear on any bonds or coupons shall cease to be such officer  
1651 before the delivery of such bonds, such signature or facsimile  
1652 shall nevertheless be valid and sufficient for all purposes the  
1653 same as if the officer had remained in office until such  
1654 delivery.

1655       Section 39.   Section 331.343, Florida Statutes, is amended  
1656 to read:

1657       331.343   Defeasance.--The board may make such provision  
1658 with respect to the defeasance of the right, title, and interest  
1659 of the holders of any of the bonds and obligations of Space  
1660 Florida ~~the authority~~ in any revenues, funds, or other  
1661 properties by which such bonds are secured as the board deems

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1662 appropriate and, without limitation on the foregoing, may  
1663 provide that when such bonds or obligations become due and  
1664 payable or shall have been called for redemption, and the whole  
1665 amount of the principal and the interest and premium, if any,  
1666 due and payable upon the bonds or obligations when outstanding  
1667 shall be paid, or sufficient moneys or direct obligations of the  
1668 United States Government the principal of and the interest on  
1669 which when due will provide sufficient moneys, shall be held or  
1670 deposited in trust for such purpose, and provision shall also be  
1671 made for paying all other sums payable in connection with such  
1672 bonds or other obligations, then and in such event the right,  
1673 title, and interest of the holders of the bonds in any revenues,  
1674 funds, or other properties by which such bonds are secured shall  
1675 thereupon cease, terminate, and become void; and the board may  
1676 apply any surplus in any sinking fund established in connection  
1677 with such bonds or obligations and all balances remaining in all  
1678 other funds or accounts other than money held for the redemption  
1679 or payment of the bonds or other obligations to any lawful  
1680 purpose of Space Florida ~~the authority~~ as the board shall  
1681 determine.

1682       Section 40.   Section 331.345, Florida Statutes, is amended  
1683 to read:

1684       331.345   Covenants.--Any resolution authorizing the  
1685 issuance of bonds may contain such covenants as the board may  
1686 deem advisable and all such covenants shall constitute valid and  
1687 legally binding and enforceable contracts between Space Florida  
1688 ~~the authority~~ and the bondholders, regardless of the time of  
1689 issuance thereof. Such covenants may include, without

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1690 limitation, covenants concerning the disposition of the bond  
1691 proceeds, the use and disposition of project revenues, the  
1692 pledging of revenues, and assessments, the obligations of Space  
1693 Florida ~~the authority~~ with respect to the operation of the  
1694 project and the maintenance of adequate project revenues, the  
1695 issuance of additional bonds, the appointment, powers, and  
1696 duties of trustees and receivers, the acquisition of outstanding  
1697 bonds and obligations, restrictions on the establishing of  
1698 competing projects or facilities, restrictions on the sale or  
1699 disposal of the assets and property of Space Florida ~~the~~  
1700 ~~authority~~, the priority of assessment liens, the priority of  
1701 claims by bondholders on the taxing power of Space Florida ~~the~~  
1702 ~~authority~~, the maintenance of deposits to assure the payment of  
1703 revenues by users of spaceport facilities and services, the  
1704 discontinuance of Space Florida ~~authority~~ services by reason of  
1705 delinquent payments, acceleration upon default, the execution of  
1706 necessary instruments, the procedure for amending or abrogating  
1707 covenants with the bondholders, and such other covenants as may  
1708 be deemed necessary or desirable for the security of the  
1709 bondholders.

1710       Section 41.   Section 331.346, Florida Statutes, is amended  
1711 to read:

1712       331.346   Validity of bonds; validation proceedings.--Any  
1713 bonds issued by Space Florida ~~the authority~~ shall be  
1714 incontestable in the hands of bona fide purchasers or holders  
1715 for value and shall not be invalid because of any irregularity  
1716 or defect in the proceedings for the issue and sale thereof.  
1717 Prior to the issuance of any bonds, Space Florida ~~the authority~~

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1718 shall publish a notice at least once in a newspaper or  
1719 newspapers published or of general circulation in the  
1720 appropriate counties in the state, stating the date of adoption  
1721 of the resolution authorizing such obligations, the amount,  
1722 maximum rate of interest, and maturity of such obligations, and  
1723 the purpose in general terms for which such obligations are to  
1724 be issued, and further stating that no action or proceeding  
1725 questioning the validity of such obligations or of the  
1726 proceedings authorizing the issuance thereof, or of any  
1727 covenants made therein, must be instituted within 20 days after  
1728 the first publication of such notice, or the validity of such  
1729 obligations, proceedings, and covenants shall not be thereafter  
1730 questioned in any court whatsoever. If no such action or  
1731 proceeding is so instituted within such 20-day period, then the  
1732 validity of such obligations, proceedings, and covenants shall  
1733 be conclusive, and all persons or parties whatsoever shall be  
1734 forever barred from questioning the validity of such  
1735 obligations, proceedings, or covenants in any court whatsoever.

1736       Section 42.   Section 331.347, Florida Statutes, is amended  
1737 to read:

1738       331.347   Act furnishes full authority for issuance of  
1739 bonds.--This act constitutes full and complete authority for the  
1740 issuance of bonds and the exercise of the powers of Space  
1741 Florida ~~the authority~~ provided herein. Any and all bonds issued  
1742 by Space Florida ~~the authority~~ shall not be secured by the full  
1743 faith and credit of the State of Florida and do not constitute  
1744 an obligation, either general or special, thereof.

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1745           Section 43.   Section 331.348, Florida Statutes, is amended  
1746 to read:

1747           331.348   Investment of funds.--The board may in its  
1748 discretion invest funds of Space Florida ~~the authority~~ through  
1749 the Chief Financial Officer or in:

1750           (1)   Direct obligations of or obligations guaranteed by the  
1751 United States or for the payment of the principal and interest  
1752 of which the faith and credit of the United States is pledged;

1753           (2)   Bonds or notes issued by any of the following federal  
1754 agencies: Bank for Cooperatives; federal intermediate credit  
1755 banks; federal home loan bank system; federal land banks; or the  
1756 Federal National Mortgage Association (including debentures or  
1757 participating certificates issued by such association);

1758           (3)   Public housing bonds issued by public housing  
1759 authorities and secured by a pledge or annual contributions  
1760 under an annual contribution contract or contracts with the  
1761 United States;

1762           (4)   Bonds or other interest-bearing obligations of any  
1763 county, district, city, or town located in the state for which  
1764 the full faith and credit of such political subdivision is  
1765 pledged;

1766           (5)   Any investment authorized for insurers by ss. 625.306-  
1767 625.316 and amendments thereto; or

1768           (6)   Any investment authorized under s. 17.57 and  
1769 amendments thereto.

1770           Section 44.   Section 331.349, Florida Statutes, is amended  
1771 to read:

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1772           331.349   Fiscal year of Space Florida ~~the authority~~.--The  
1773   board may ~~has the power to~~ establish and from time to time  
1774   redetermine the fiscal year of Space Florida ~~the authority~~.  
1775   Unless the board otherwise provides, Space Florida's ~~the~~  
1776   ~~authority's~~ fiscal year shall be July 1 through June 30.

1777           Section 45.   Section 331.350, Florida Statutes, is amended  
1778   to read:

1779           331.350   Insurance coverage of Space Florida ~~the authority~~;  
1780   safety program.--

1781           (1)   Notwithstanding any other provision of law, the State  
1782   Risk Management Trust Fund established under s. 284.30 may ~~shall~~  
1783   not insure buildings and property owned or leased by Space  
1784   Florida ~~the authority~~.

1785           (2)   Notwithstanding any other provision of law, the State  
1786   Risk Management Trust Fund established under s. 284.30 may ~~shall~~  
1787   not insure against any liability of Space Florida ~~the authority~~.

1788           (3)   Space Florida ~~The authority~~ shall establish a safety  
1789   program. The safety program shall include:

1790           (a)   The development and implementation of a loss  
1791   prevention program which shall consist of a comprehensive  
1792   ~~authority-wide~~ safety program for all of Space Florida,  
1793   including a statement, established by the board of directors  
1794   ~~supervisors~~, of safety policy and responsibility.

1795           (b)   Provision for regular and periodic facility and  
1796   equipment inspections.

1797           (c)   Investigation of job-related employee accidents and  
1798   other accidents occurring on the premises of Space Florida ~~the~~  
1799   ~~authority~~ or within areas of its jurisdiction.



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1800           (d) Establishment of a program to promote increased safety  
1801 awareness among employees, agents, and subcontractors of Space  
1802 Florida ~~the authority~~.

1803           (4)(a) Space Florida ~~The authority~~ shall, if available,  
1804 secure insurance coverage within reasonable limits for liability  
1805 which may arise as a consequence of its responsibilities.

1806           (b) Space Florida ~~The authority~~ shall, if available, and  
1807 if cost-effective, secure insurance coverage on its buildings,  
1808 facilities, and property at reasonable levels.

1809           (c) Space Florida ~~The authority~~, with respect to the  
1810 purchase of insurance, shall be subject to the applicable  
1811 provisions of chapter 287 and other applicable law.

1812           Section 46. Section 331.351, Florida Statutes, is amended  
1813 to read:

1814           331.351 Participation by women, minorities, and socially  
1815 and economically disadvantaged business enterprises  
1816 encouraged.--It is the intent of the Legislature and the public  
1817 policy of this state that women, minorities, and socially and  
1818 economically disadvantaged business enterprises be encouraged to  
1819 participate fully in all phases of economic and community  
1820 development. Accordingly, to achieve such purpose, Space Florida  
1821 ~~the authority~~ shall, in accordance with applicable state and  
1822 federal law, involve and utilize women, minorities, and socially  
1823 and economically disadvantaged business enterprises in all  
1824 phases of the design, development, construction, maintenance,  
1825 and operation of spaceports developed under this act.

1826           Section 47. Section 331.354, Florida Statutes, is amended  
1827 to read:

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1828           331.354 Tax exemption.--The exercise of the powers granted  
1829 by this act in all respects shall be for the benefit of the  
1830 people of the state, for the increase of their industry and  
1831 prosperity, for the improvement of their health and living  
1832 conditions, and for the provision of gainful employment and  
1833 shall constitute the performance of essential public functions.  
1834 Space Florida is ~~The authority shall~~ not be required to pay any  
1835 taxes on any project or any other property owned by Space  
1836 Florida ~~the authority~~ under ~~the provisions of~~ this act or upon  
1837 the income therefrom. The bonds issued under ~~the provisions of~~  
1838 this act or upon the income therefrom (including any profit made  
1839 on the sale thereof), and all notes, mortgages, security  
1840 agreements, letters of credit, or other instruments which arise  
1841 out of or are given to secure the repayment of bonds issued in  
1842 connection with a project financed under this act, shall at all  
1843 times be free from taxation by the state or any local unit,  
1844 political subdivision, or other instrumentality of the state.  
1845 ~~Nothing in~~ This section, however, does not exempt ~~shall be~~  
1846 ~~construed as exempting~~ from taxation or assessments the  
1847 leasehold interest of a lessee in any project or any other  
1848 property or interest owned by the lessee. The exemption granted  
1849 by this section is ~~shall~~ not be applicable to any tax imposed by  
1850 chapter 220 on interest, income, or profits on debt obligations  
1851 owned by corporations.

1852           Section 48. Section 331.355, Florida Statutes, is amended  
1853 to read:

1854           331.355 Use of name; ownership rights to intellectual  
1855 property.--

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1856           (1)(a) The corporate name of a corporation incorporated or  
1857 authorized to transact business in this state, or the name of  
1858 any person or business entity transacting business in this  
1859 state, may not use the words "Space Florida," "Florida Space  
1860 Authority," "Florida Aerospace Finance Corporation," "Florida  
1861 Space Research Institute," "spaceport Florida," or "Florida  
1862 spaceport" in its name unless Space Florida ~~the authority~~ gives  
1863 written approval for such use.

1864           (b) The Department of State may dissolve, pursuant to s.  
1865 607.1421, any corporation that violates paragraph (a).

1866           (2) Notwithstanding any provision of chapter 286, the  
1867 legal title and every right, interest, claim, or demand of any  
1868 kind in and to any patent, trademark, copyright, certification  
1869 mark, or other right acquired under the patent and trademark  
1870 laws of the United States or this state or any foreign country,  
1871 or the application for the same, as is owned or held, acquired,  
1872 or developed by Space Florida ~~the authority~~, under the authority  
1873 and directions given it by this part, is vested in Space Florida  
1874 ~~the authority~~ for the use, benefit, and purposes provided in  
1875 this part. Space Florida ~~The authority~~ is vested with and is  
1876 authorized to exercise any and all of the normal incidents of  
1877 such ownership, including the receipt and disposition of  
1878 royalties. Any sums received as royalties from any such rights  
1879 are hereby appropriated to Space Florida ~~the authority~~ for any  
1880 and all of the purposes and uses provided in this part.

1881           Section 49. Section 331.360, Florida Statutes, is amended  
1882 to read:

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1883           331.360   Joint project agreement or assistance; spaceport  
1884 master plan.--

1885           (1)   It shall be the duty, function, and responsibility of  
1886 the Department of Transportation to promote the further  
1887 development and improvement of aerospace transportation  
1888 facilities; to address intermodal requirements and impacts of  
1889 the launch ranges, spaceports, and other space transportation  
1890 facilities; to assist in the development of joint-use facilities  
1891 and technology that support aviation and aerospace operations;  
1892 and to facilitate and promote cooperative efforts between  
1893 federal and state government entities to improve space  
1894 transportation capacity and efficiency. In carrying out this  
1895 duty and responsibility, the department may assist and advise,  
1896 cooperate with, and coordinate with federal, state, local, or  
1897 private organizations and individuals. The department may  
1898 administratively house its space transportation responsibilities  
1899 within an existing division or office.

1900           (2)   Notwithstanding any other provision of law, the  
1901 Department of Transportation may enter into a joint project  
1902 agreement with, or otherwise assist, ~~the Florida Space~~ Florida  
1903 ~~Authority~~ as necessary to effectuate the provisions of this  
1904 chapter and may allocate funds for such purposes in its 5-year  
1905 work program. However, the department may not fund the  
1906 administrative or operational costs of Space Florida ~~the~~  
1907 ~~authority~~.

1908           (3)   Space Florida ~~The authority~~ shall develop a spaceport  
1909 master plan for expansion and modernization of space  
1910 transportation facilities within spaceport territories as

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1911 defined in s. 331.303-~~(23)~~. The plan shall contain recommended  
1912 projects to meet current and future commercial, national, and  
1913 state space transportation requirements. Space Florida ~~The~~  
1914 ~~authority~~ shall submit the plan to any appropriate metropolitan  
1915 planning organization ~~M.P.O.~~ for review of intermodal impacts.  
1916 Space Florida ~~The authority~~ shall submit the spaceport master  
1917 plan to the Department of Transportation, and such plan may be  
1918 included within the department's 5-year work program of  
1919 qualifying aerospace discretionary capacity improvement under  
1920 subsection (4). The plan shall identify appropriate funding  
1921 levels and include recommendations on appropriate sources of  
1922 revenue that may be developed to contribute to the State  
1923 Transportation Trust Fund.

1924       (4) Subject to the availability of appropriated funds, the  
1925 department may participate in the capital cost of eligible  
1926 spaceport discretionary capacity improvement projects. The  
1927 annual legislative budget request shall be based on the proposed  
1928 funding requested for approved spaceport discretionary capacity  
1929 improvement projects.

1930       Section 50. Section 331.369, Florida Statutes, is amended  
1931 to read:

1932       331.369 Space Industry Workforce Initiative.--

1933       (1) The Legislature finds that the aerospace ~~space~~  
1934 industry is critical to the economic future of the state and  
1935 that the competitiveness of the industry in the state depends  
1936 upon the development and maintenance of a qualified workforce.  
1937 The Legislature further finds that the aerospace ~~space~~ industry  
1938 in this state has diverse and complex workforce needs,

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1939 including, but not limited to, the need for qualified entry-  
1940 level workers, the need to upgrade the skills of technician-  
1941 level incumbent workers, and the need to ensure continuing  
1942 education opportunities for workers with advanced educational  
1943 degrees. It is the intent of the Legislature to support programs  
1944 designed to address the workforce development needs of the  
1945 aerospace ~~space~~ industry in this state.

1946       (2) The Workforce Development Board of Enterprise Florida,  
1947 Inc., or its successor entity, shall coordinate development of a  
1948 Space Industry Workforce Initiative in partnership with Space  
1949 Florida, ~~the Florida Space Research Institute, the institute's~~  
1950 ~~consortium of~~ public and private universities, community  
1951 colleges, and other training providers approved by the board.  
1952 The purpose of the initiative is to use or revise existing  
1953 programs and to develop innovative new programs to address the  
1954 workforce needs of the aerospace ~~space~~ industry.

1955       (3) The initiative shall emphasize:

1956       (a) Curricula content and timeframes developed with  
1957 industry participation and endorsed by the industry;

1958       (b) Programs that certify persons completing training as  
1959 meeting industry-approved standards or competencies;

1960       (c) Use of distance-learning and computer-based training  
1961 modules as appropriate and feasible;

1962       (d) Industry solicitation of public and private  
1963 universities to develop continuing education programs at the  
1964 master's and doctoral levels;

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1965           (e) Agreements with the National Aeronautics and Space  
1966 Administration to replicate on a national level successful  
1967 training programs developed through the initiative; and  
1968           (f) Leveraging of state and federal workforce funds.  
1969           (4) The Workforce Development Board of Enterprise Florida,  
1970 Inc., or its successor entity, with the assistance of Space  
1971 Florida ~~the Florida Space Research Institute~~, shall convene  
1972 representatives from the aerospace ~~space~~ industry to identify  
1973 the priority training and education needs of the industry and to  
1974 appoint a team to design programs to meet the ~~such~~ priority  
1975 needs.  
1976           (5) The Workforce Development Board of Enterprise Florida,  
1977 Inc., or its successor entity, as part of its statutorily  
1978 prescribed annual report to the Legislature, shall provide  
1979 recommendations for policies, programs, and funding to enhance  
1980 the workforce needs of the aerospace ~~space~~ industry.  
1981           Section 51. Paragraph (g) of subsection (2) of section  
1982 14.2015, Florida Statutes, is amended to read:  
1983           14.2015 Office of Tourism, Trade, and Economic  
1984 Development; creation; powers and duties.--  
1985           (2) The purpose of the Office of Tourism, Trade, and  
1986 Economic Development is to assist the Governor in working with  
1987 the Legislature, state agencies, business leaders, and economic  
1988 development professionals to formulate and implement coherent  
1989 and consistent policies and strategies designed to provide  
1990 economic opportunities for all Floridians. To accomplish such  
1991 purposes, the Office of Tourism, Trade, and Economic Development  
1992 shall:

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1993           (g) Serve as contract administrator for the state with  
1994 respect to contracts with Enterprise Florida, Inc., the Florida  
1995 Commission on Tourism, Space Florida, and all direct-support  
1996 organizations under this act, excluding those relating to  
1997 tourism. To accomplish the provisions of this act and applicable  
1998 provisions of chapter 288, and notwithstanding the provisions of  
1999 part I of chapter 287, the office shall enter into specific  
2000 contracts with Enterprise Florida, Inc., the Florida Commission  
2001 on Tourism, and other appropriate direct-support organizations.  
2002 Such contracts may be multiyear and shall include specific  
2003 performance measures for each year.

2004           Section 52. Section 74.011, Florida Statutes, is amended  
2005 to read:

2006           74.011 Scope.--In any eminent domain action, properly  
2007 instituted by and in the name of the state; the Department of  
2008 Transportation; any county, school board, municipality,  
2009 expressway authority, regional water supply authority,  
2010 transportation authority, flood control district, or drainage or  
2011 subdrainage district; the ship canal authority; any lawfully  
2012 constituted housing, port, or aviation authority; ~~the Florida~~  
2013 ~~Space Authority~~, or any rural electric cooperative, telephone  
2014 cooperative corporation, or public utility corporation, the  
2015 petitioner may avail itself of the provisions of this chapter to  
2016 take possession and title in advance of the entry of final  
2017 judgment.

2018           Section 53. Subsection (6) of section 196.012, Florida  
2019 Statutes, is amended to read:



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2020           196.012 Definitions.--For the purpose of this chapter, the  
2021 following terms are defined as follows, except where the context  
2022 clearly indicates otherwise:

2023           (6) Governmental, municipal, or public purpose or function  
2024 shall be deemed to be served or performed when the lessee under  
2025 any leasehold interest created in property of the United States,  
2026 the state or any of its political subdivisions, or any  
2027 municipality, agency, special district, authority, or other  
2028 public body corporate of the state is demonstrated to perform a  
2029 function or serve a governmental purpose which could properly be  
2030 performed or served by an appropriate governmental unit or which  
2031 is demonstrated to perform a function or serve a purpose which  
2032 would otherwise be a valid subject for the allocation of public  
2033 funds. For purposes of the preceding sentence, an activity  
2034 undertaken by a lessee which is permitted under the terms of its  
2035 lease of real property designated as an aviation area on an  
2036 airport layout plan which has been approved by the Federal  
2037 Aviation Administration and which real property is used for the  
2038 administration, operation, business offices and activities  
2039 related specifically thereto in connection with the conduct of  
2040 an aircraft full service fixed base operation which provides  
2041 goods and services to the general aviation public in the  
2042 promotion of air commerce shall be deemed an activity which  
2043 serves a governmental, municipal, or public purpose or function.  
2044 Any activity undertaken by a lessee which is permitted under the  
2045 terms of its lease of real property designated as a public  
2046 airport as defined in s. 332.004(14) by municipalities,  
2047 agencies, special districts, authorities, or other public bodies

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2048 corporate and public bodies politic of the state, a spaceport as  
2049 defined in s. 331.303(19), or which is located in a deepwater  
2050 port identified in s. 403.021(9)(b) and owned by one of the  
2051 foregoing governmental units, subject to a leasehold or other  
2052 possessory interest of a nongovernmental lessee that is deemed  
2053 to perform an aviation, airport, aerospace, maritime, or port  
2054 purpose or operation shall be deemed an activity that serves a  
2055 governmental, municipal, or public purpose. The use by a lessee,  
2056 licensee, or management company of real property or a portion  
2057 thereof as a convention center, visitor center, sports facility  
2058 with permanent seating, concert hall, arena, stadium, park, or  
2059 beach is deemed a use that serves a governmental, municipal, or  
2060 public purpose or function when access to the property is open  
2061 to the general public with or without a charge for admission. If  
2062 property deeded to a municipality by the United States is  
2063 subject to a requirement that the Federal Government, through a  
2064 schedule established by the Secretary of the Interior, determine  
2065 that the property is being maintained for public historic  
2066 preservation, park, or recreational purposes and if those  
2067 conditions are not met the property will revert back to the  
2068 Federal Government, then such property shall be deemed to serve  
2069 a municipal or public purpose. The term "governmental purpose"  
2070 also includes a direct use of property on federal lands in  
2071 connection with the Federal Government's Space Exploration  
2072 Program or spaceport activities as defined in s. 212.02(22).  
2073 Real property and tangible personal property owned by the  
2074 Federal Government or Space Florida ~~the Florida Space Authority~~  
2075 and used for defense and space exploration purposes or which is

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2076 | put to a use in support thereof shall be deemed to perform an  
2077 | essential national governmental purpose and shall be exempt.  
2078 | "Owned by the lessee" as used in this chapter does not include  
2079 | personal property, buildings, or other real property  
2080 | improvements used for the administration, operation, business  
2081 | offices and activities related specifically thereto in  
2082 | connection with the conduct of an aircraft full service fixed  
2083 | based operation which provides goods and services to the general  
2084 | aviation public in the promotion of air commerce provided that  
2085 | the real property is designated as an aviation area on an  
2086 | airport layout plan approved by the Federal Aviation  
2087 | Administration. For purposes of determination of "ownership,"  
2088 | buildings and other real property improvements which will revert  
2089 | to the airport authority or other governmental unit upon  
2090 | expiration of the term of the lease shall be deemed "owned" by  
2091 | the governmental unit and not the lessee. Providing two-way  
2092 | telecommunications services to the public for hire by the use of  
2093 | a telecommunications facility, as defined in s. 364.02(15), and  
2094 | for which a certificate is required under chapter 364 does not  
2095 | constitute an exempt use for purposes of s. 196.199, unless the  
2096 | telecommunications services are provided by the operator of a  
2097 | public-use airport, as defined in s. 332.004, for the operator's  
2098 | provision of telecommunications services for the airport or its  
2099 | tenants, concessionaires, or licensees, or unless the  
2100 | telecommunications services are provided by a public hospital.  
2101 | However, property that is being used to provide such  
2102 | telecommunications services on or before October 1, 1997, shall  
2103 | remain exempt, but such exemption expires October 1, 2004.

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2104           Section 54. Subsection (22) of section 212.02, Florida  
2105 Statutes, is amended to read:

2106           212.02 Definitions.--The following terms and phrases when  
2107 used in this chapter have the meanings ascribed to them in this  
2108 section, except where the context clearly indicates a different  
2109 meaning:

2110           (22) "Spaceport activities" means activities directed or  
2111 sponsored by Space Florida ~~the Florida Space Authority~~ on  
2112 spaceport territory pursuant to its powers and responsibilities  
2113 under the Space Florida Act ~~Florida Space Authority Act~~.

2114           Section 55. Subsection (7) of section 288.063, Florida  
2115 Statutes, is amended to read:

2116           288.063 Contracts for transportation projects.--

2117           (7) For the purpose of this section, Space Florida ~~the~~  
2118 ~~Florida Space Authority~~ may serve as the local government or as  
2119 the contracting agency for transportation projects within  
2120 spaceport territory as defined by s. 331.304.

2121           Section 56. Subsection (1) of section 288.075, Florida  
2122 Statutes, is amended to read:

2123           288.075 Confidentiality of records.--

2124           (1) As used in this section, the term "economic  
2125 development agency" means the Office of Tourism, Trade, and  
2126 Economic Development, any industrial development authority  
2127 created in accordance with part III of chapter 159 or by special  
2128 law, Space Florida ~~the Florida Space Authority~~ created in part  
2129 II of chapter 331, ~~the Florida Aerospace Finance Corporation~~  
2130 ~~created in part III of chapter 331~~, the public economic  
2131 development agency of a county or municipality, or any research

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2132 and development authority created in accordance with part V of  
2133 chapter 159. The term also includes any private agency, person,  
2134 partnership, corporation, or business entity when authorized by  
2135 the state, a municipality, or a county to promote the general  
2136 business interests or industrial interests of the state or that  
2137 municipality or county.

2138 Section 57. Subsection (2) of section 288.35, Florida  
2139 Statutes, is amended to read:

2140 288.35 Definitions.--The following terms, wherever used or  
2141 referred to in this part, shall have the following meanings:

2142 (2) "Government agency" means the state or any county or  
2143 political subdivision thereof; any state agency; any  
2144 consolidated government of a county, and some or all of the  
2145 municipalities located within the ~~said~~ county; any chartered  
2146 municipality in the state; and any of the institutions of such  
2147 consolidated governments, counties, or municipalities.  
2148 Specifically included are airports, port authorities, industrial  
2149 authorities, and Space Florida ~~the Florida Space Authority~~.

2150 Section 58. Subsection (2) of section 288.9415, Florida  
2151 Statutes, is amended to read:

2152 288.9415 International Trade Grants.--

2153 (2) A county, municipality, economic development council,  
2154 Space Florida ~~the Florida Space Authority~~, or a not-for-profit  
2155 association of businesses organized to assist in the promotion  
2156 of international trade may apply for a grant of state funds for  
2157 the promotion of international trade.

2158 Section 59. Paragraph (j) of subsection (5) of section  
2159 212.08, Florida Statutes, is amended to read:

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2160           212.08 Sales, rental, use, consumption, distribution, and  
2161 storage tax; specified exemptions.--The sale at retail, the  
2162 rental, the use, the consumption, the distribution, and the  
2163 storage to be used or consumed in this state of the following  
2164 are hereby specifically exempt from the tax imposed by this  
2165 chapter.

2166           (5) EXEMPTIONS; ACCOUNT OF USE.--

2167           (j) Machinery and equipment used in semiconductor,  
2168 defense, or space technology production and research and  
2169 development.--

2170           1.a. Industrial machinery and equipment used in  
2171 semiconductor technology facilities certified under subparagraph  
2172 6. to manufacture, process, compound, or produce semiconductor  
2173 technology products for sale or for use by these facilities are  
2174 exempt from the tax imposed by this chapter. For purposes of  
2175 this paragraph, industrial machinery and equipment includes  
2176 molds, dies, machine tooling, other appurtenances or accessories  
2177 to machinery and equipment, testing equipment, test beds,  
2178 computers, and software, whether purchased or self-fabricated,  
2179 and, if self-fabricated, includes materials and labor for  
2180 design, fabrication, and assembly.

2181           b. Industrial machinery and equipment used in defense or  
2182 space technology facilities certified under subparagraph 6. to  
2183 design, manufacture, assemble, process, compound, or produce  
2184 defense technology products or space technology products for  
2185 sale or for use by these facilities are exempt from ~~25 percent~~  
2186 ~~of~~ the tax imposed by this chapter.

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2187           2.a. Machinery and equipment are exempt from the tax  
2188 imposed by this chapter if used predominately in semiconductor  
2189 wafer research and development activities in a semiconductor  
2190 technology research and development facility certified under  
2191 subparagraph 6. For purposes of this paragraph, machinery and  
2192 equipment includes molds, dies, machine tooling, other  
2193 appurtenances or accessories to machinery and equipment, testing  
2194 equipment, test beds, computers, and software, whether purchased  
2195 or self-fabricated, and, if self-fabricated, includes materials  
2196 and labor for design, fabrication, and assembly.

2197           b. Machinery and equipment are exempt from ~~25 percent of~~  
2198 the tax imposed by this chapter if used predominately in defense  
2199 or space research and development activities in a defense or  
2200 space technology research and development facility certified  
2201 under subparagraph 6.

2202           3. Building materials purchased for use in manufacturing  
2203 or expanding clean rooms in semiconductor-manufacturing  
2204 facilities are exempt from the tax imposed by this chapter.

2205           4. In addition to meeting the criteria mandated by  
2206 subparagraph 1., subparagraph 2., or subparagraph 3., a business  
2207 must be certified by the Office of Tourism, Trade, and Economic  
2208 Development as authorized in this paragraph in order to qualify  
2209 for exemption under this paragraph.

2210           5. For items purchased tax exempt pursuant to this  
2211 paragraph, possession of a written certification from the  
2212 purchaser, certifying the purchaser's entitlement to exemption  
2213 pursuant to this paragraph, relieves the seller of the  
2214 responsibility of collecting the tax on the sale of such items,

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2215 and the department shall look solely to the purchaser for  
2216 recovery of tax if it determines that the purchaser was not  
2217 entitled to the exemption.

2218         6.a. To be eligible to receive the exemption provided by  
2219 subparagraph 1., subparagraph 2., or subparagraph 3., a  
2220 qualifying business entity shall apply to Enterprise Florida,  
2221 Inc. The application shall be developed by the Office of  
2222 Tourism, Trade, and Economic Development in consultation with  
2223 Enterprise Florida, Inc.

2224         b. Enterprise Florida, Inc., shall review each submitted  
2225 application and information and determine whether or not the  
2226 application is complete within 5 working days. Once an  
2227 application is complete, Enterprise Florida, Inc., shall, within  
2228 10 working days, evaluate the application and recommend approval  
2229 or disapproval of the application to the Office of Tourism,  
2230 Trade, and Economic Development.

2231         c. Upon receipt of the application and recommendation from  
2232 Enterprise Florida, Inc., the Office of Tourism, Trade, and  
2233 Economic Development shall certify within 5 working days those  
2234 applicants who are found to meet the requirements of this  
2235 section and notify the applicant, Enterprise Florida, Inc., and  
2236 the department of the certification. If the Office of Tourism,  
2237 Trade, and Economic Development finds that the applicant does  
2238 not meet the requirements of this section, it shall notify the  
2239 applicant and Enterprise Florida, Inc., within 10 working days  
2240 that the application for certification has been denied and the  
2241 reasons for denial. The Office of Tourism, Trade, and Economic



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2242 Development has final approval authority for certification under  
2243 this section.

2244       7.a. A business may apply once each year for the  
2245 exemption.

2246       b. The application must indicate, for program evaluation  
2247 purposes only, the average number of full-time equivalent  
2248 employees at the facility over the preceding calendar year, the  
2249 average wage and benefits paid to those employees over the  
2250 preceding calendar year, the total investment made in real and  
2251 tangible personal property over the preceding calendar year, and  
2252 the total value of tax-exempt purchases and taxes exempted  
2253 during the previous year. The department shall assist the Office  
2254 of Tourism, Trade, and Economic Development in evaluating and  
2255 verifying information provided in the application for exemption.

2256       c. The Office of Tourism, Trade, and Economic Development  
2257 may use the information reported on the application for  
2258 evaluation purposes only and shall prepare an annual report on  
2259 the exemption program and its cost and impact. The annual report  
2260 for the preceding fiscal year shall be submitted to the  
2261 Governor, the President of the Senate, and the Speaker of the  
2262 House of Representatives by September 30 of each fiscal year.

2263       8. A business certified to receive this exemption may  
2264 elect to designate one or more state universities or community  
2265 colleges as recipients of up to 100 percent of the amount of the  
2266 exemption for which they may qualify. To receive these funds,  
2267 the institution must agree to match the funds so earned with  
2268 equivalent cash, programs, services, or other in-kind support on  
2269 a one-to-one basis in the pursuit of research and development

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2270 projects as requested by the certified business. The rights to  
2271 any patents, royalties, or real or intellectual property must be  
2272 vested in the business unless otherwise agreed to by the  
2273 business and the university or community college.

2274         9. As used in this paragraph, the term:

2275         a. "Predominately" means at least 50 percent of the time  
2276 in qualifying research and development.

2277         b. "Research and development" means basic and applied  
2278 research in the science or engineering, as well as the design,  
2279 development, and testing, of prototypes or processes of new or  
2280 improved products, including the design, development, and  
2281 testing of space launch vehicles, space flight vehicles,  
2282 missiles, satellites, or research payloads, avionics, and  
2283 associated control systems and processing systems, and  
2284 components of any of the foregoing. Research and development  
2285 does not include market research, routine consumer product  
2286 testing, sales research, research in the social sciences or  
2287 psychology, or similar nontechnological activities, ~~or technical~~  
2288 services.

2289         c. "Semiconductor technology products" means raw  
2290 semiconductor wafers or semiconductor thin films that are  
2291 transformed into semiconductor memory or logic wafers, including  
2292 wafers containing mixed memory and logic circuits; related  
2293 assembly and test operations; active-matrix flat panel displays;  
2294 semiconductor chips; semiconductor lasers; optoelectronic  
2295 elements; and related semiconductor technology products as  
2296 determined by the Office of Tourism, Trade, and Economic  
2297 Development.

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2298           d. "Clean rooms" means manufacturing facilities enclosed  
2299 in a manner that meets the clean manufacturing requirements  
2300 necessary for high-technology semiconductor-manufacturing  
2301 environments.

2302           e. "Defense technology products" means products that have  
2303 a military application, including, but not limited to, weapons,  
2304 weapons systems, guidance systems, surveillance systems,  
2305 communications or information systems, munitions, aircraft,  
2306 vessels, or boats, or components thereof, which are intended for  
2307 military use and manufactured in performance of a contract with  
2308 the United States Department of Defense or the military branch  
2309 of a recognized foreign government or a subcontract thereunder  
2310 which relates to matters of national defense.

2311           f. "Space technology products" means products that are  
2312 specifically designed or manufactured for application in space  
2313 activities, including, but not limited to, space launch  
2314 vehicles, space flight vehicles, missiles, satellites or  
2315 research payloads, avionics, and associated control systems and  
2316 processing systems and components of any of the foregoing. The  
2317 term does not include products that are designed or manufactured  
2318 for general commercial aviation or other uses even though those  
2319 products may also serve an incidental use in space applications.

2320           Section 60. Paragraph (d) of subsection (6) of section  
2321 212.20, Florida Statutes, is amended to read:

2322           212.20 Funds collected, disposition; additional powers of  
2323 department; operational expense; refund of taxes adjudicated  
2324 unconstitutionally collected.--

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2325           (6) Distribution of all proceeds under this chapter and s.  
2326 202.18(1)(b) and (2)(b) shall be as follows:

2327           (d) The proceeds of all other taxes and fees imposed  
2328 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)  
2329 and (2)(b) shall be distributed as follows:

2330           1. In any fiscal year, the greater of \$500 million, minus  
2331 an amount equal to 4.6 percent of the proceeds of the taxes  
2332 collected pursuant to chapter 201, or 5 percent of all other  
2333 taxes and fees imposed pursuant to this chapter or remitted  
2334 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in  
2335 monthly installments into the General Revenue Fund.

2336           2. Two-tenths of one percent shall be transferred to the  
2337 Ecosystem Management and Restoration Trust Fund to be used for  
2338 water quality improvement and water restoration projects.

2339           3. After the distribution under subparagraphs 1. and 2.,  
2340 8.814 percent of the amount remitted by a sales tax dealer  
2341 located within a participating county pursuant to s. 218.61  
2342 shall be transferred into the Local Government Half-cent Sales  
2343 Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to  
2344 be transferred pursuant to this subparagraph to the Local  
2345 Government Half-cent Sales Tax Clearing Trust Fund shall be  
2346 reduced by 0.1 percent, and the department shall distribute this  
2347 amount to the Public Employees Relations Commission Trust Fund  
2348 less \$5,000 each month, which shall be added to the amount  
2349 calculated in subparagraph 4. and distributed accordingly.

2350           4. After the distribution under subparagraphs 1., 2., and  
2351 3., 0.095 percent shall be transferred to the Local Government

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2352 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant  
2353 to s. 218.65.

2354       5. After the distributions under subparagraphs 1., 2., 3.,  
2355 and 4., 2.0440 percent of the available proceeds pursuant to  
2356 this paragraph shall be transferred monthly to the Revenue  
2357 Sharing Trust Fund for Counties pursuant to s. 218.215.

2358       6. After the distributions under subparagraphs 1., 2., 3.,  
2359 and 4., 1.3409 percent of the available proceeds pursuant to  
2360 this paragraph shall be transferred monthly to the Revenue  
2361 Sharing Trust Fund for Municipalities pursuant to s. 218.215. If  
2362 the total revenue to be distributed pursuant to this  
2363 subparagraph is at least as great as the amount due from the  
2364 Revenue Sharing Trust Fund for Municipalities and the former  
2365 Municipal Financial Assistance Trust Fund in state fiscal year  
2366 1999-2000, no municipality shall receive less than the amount  
2367 due from the Revenue Sharing Trust Fund for Municipalities and  
2368 the former Municipal Financial Assistance Trust Fund in state  
2369 fiscal year 1999-2000. If the total proceeds to be distributed  
2370 are less than the amount received in combination from the  
2371 Revenue Sharing Trust Fund for Municipalities and the former  
2372 Municipal Financial Assistance Trust Fund in state fiscal year  
2373 1999-2000, each municipality shall receive an amount  
2374 proportionate to the amount it was due in state fiscal year  
2375 1999-2000.

2376       7. Of the remaining proceeds:

2377       a. In each fiscal year, the sum of \$29,915,500 shall be  
2378 divided into as many equal parts as there are counties in the  
2379 state, and one part shall be distributed to each county. The

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2380 distribution among the several counties shall begin each fiscal  
2381 year on or before January 5th and shall continue monthly for a  
2382 total of 4 months. If a local or special law required that any  
2383 moneys accruing to a county in fiscal year 1999-2000 under the  
2384 then-existing provisions of s. 550.135 be paid directly to the  
2385 district school board, special district, or a municipal  
2386 government, such payment shall continue until such time that the  
2387 local or special law is amended or repealed. The state covenants  
2388 with holders of bonds or other instruments of indebtedness  
2389 issued by local governments, special districts, or district  
2390 school boards prior to July 1, 2000, that it is not the intent  
2391 of this subparagraph to adversely affect the rights of those  
2392 holders or relieve local governments, special districts, or  
2393 district school boards of the duty to meet their obligations as  
2394 a result of previous pledges or assignments or trusts entered  
2395 into which obligated funds received from the distribution to  
2396 county governments under then-existing s. 550.135. This  
2397 distribution specifically is in lieu of funds distributed under  
2398 s. 550.135 prior to July 1, 2000.

2399       b. The department shall distribute \$166,667 monthly  
2400 pursuant to s. 288.1162 to each applicant that has been  
2401 certified as a "facility for a new professional sports  
2402 franchise" or a "facility for a retained professional sports  
2403 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be  
2404 distributed monthly by the department to each applicant that has  
2405 been certified as a "facility for a retained spring training  
2406 franchise" pursuant to s. 288.1162; however, not more than  
2407 \$208,335 may be distributed monthly in the aggregate to all

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2408 certified facilities for a retained spring training franchise.  
 2409 Distributions shall begin 60 days following such certification  
 2410 and shall continue for not more than 30 years. Nothing contained  
 2411 in this paragraph shall be construed to allow an applicant  
 2412 certified pursuant to s. 288.1162 to receive more in  
 2413 distributions than actually expended by the applicant for the  
 2414 public purposes provided for in s. 288.1162(6). However, a  
 2415 certified applicant is entitled to receive distributions up to  
 2416 the maximum amount allowable and undistributed under this  
 2417 section for additional renovations and improvements to the  
 2418 facility for the franchise without additional certification.

2419       c. Beginning 30 days after notice by the Office of  
 2420 Tourism, Trade, and Economic Development to the Department of  
 2421 Revenue that an applicant has been certified as the professional  
 2422 golf hall of fame pursuant to s. 288.1168 and is open to the  
 2423 public, \$166,667 shall be distributed monthly, for up to 300  
 2424 months, to the applicant.

2425       d. Beginning 30 days after notice by the Office of  
 2426 Tourism, Trade, and Economic Development to the Department of  
 2427 Revenue that the applicant has been certified as the  
 2428 International Game Fish Association World Center facility  
 2429 pursuant to s. 288.1169, and the facility is open to the public,  
 2430 \$83,333 shall be distributed monthly, for up to 168 months, to  
 2431 the applicant. This distribution is subject to reduction  
 2432 pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be  
 2433 made, after certification and before July 1, 2000.

2434       e. Every dealer conducting business at a fixed location at  
 2435 the John F. Kennedy Space Center or Cape Canaveral Air Force

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2436   Station and selling admissions to the John F. Kennedy Space  
 2437   Center or Cape Canaveral Air Force Station, or any part of  
 2438   either location, under a contract with the National Aeronautics  
 2439   and Space Administration or under a subcontract to such  
 2440   contract, shall file returns each month in accordance with this  
 2441   sub-subparagraph. Each dealer must file a separate return each  
 2442   month which reports, separately from any other sales and use  
 2443   taxes due under this chapter, the sale of admissions to the John  
 2444   F. Kennedy Space Center or Cape Canaveral Air Force Station or  
 2445   any part of the facilities or to any event held at either  
 2446   location, together with sales at retail of tangible personal  
 2447   property from such fixed place of business, and leases and  
 2448   licenses by the dealer at the John F. Kennedy Space Center or  
 2449   Cape Canaveral Air Force Station taxable under s. 212.031, and  
 2450   the taxes collected by the dealer with respect to such  
 2451   admissions, leases, licenses, and sales. All amounts due under  
 2452   this chapter with respect to these transactions shall be timely  
 2453   remitted to the department. The dealer shall simultaneously file  
 2454   a copy of the return with Space Florida and a copy with the  
 2455   director of the Office of Tourism, Trade, and Economic  
 2456   Development, all of which return copies and information  
 2457   contained in such copies are subject to the same confidentiality  
 2458   provisions as are applicable to returns and information filed  
 2459   with the department under s. 213.053. Each month the department  
 2460   shall distribute to Space Florida all such proceeds collected  
 2461   and remitted to the department as shown on the returns required  
 2462   by this sub-subparagraph. However, the monthly distributions may  
 2463   not include proceeds of discretionary surtaxes due under this

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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chapter. The proceeds of the monthly distributions shall be expended for aerospace education projects authorized in s. 331.3051. If the department collects any additional amounts under this chapter with respect to any transactions for which a separate return is required by this sub-subparagraph, no later than 30 days after the collection, the proceeds shall be distributed by the department to Space Florida for the uses specified in this sub-subparagraph. This sub-subparagraph does not affect any dealer's liability for other taxes imposed by and due under this chapter.

8. All other proceeds shall remain with the General Revenue Fund.

Section 61. Section 1004.86, Florida Statutes, is created to read:

1004.86 Florida Center for Mathematics and Science Education Research.--

(1) The Department of Education shall establish at a public state university the Florida Center for Mathematics and Science Education Research to increase student achievement in science and mathematics. The center shall:

(a) Provide technical assistance and support to school districts and schools in the development and implementation of mathematics and science instruction.

(b) Conduct applied research on policy and practices related to mathematics and science instruction and assessment in the state.

(c) Conduct or compile basic research regarding student acquisition of mathematics and science knowledge and skills.

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2492        (d) Develop comprehensive course frameworks for  
 2493 mathematics and science courses that emphasize rigor and  
 2494 relevance at the elementary, middle, and high school levels.  
 2495        (e) Disseminate information regarding research-based  
 2496 teaching practices in mathematics and science to teachers and  
 2497 teacher educators in the state.  
 2498        (f) Collect, manage, and report on assessment information  
 2499 regarding student achievement in mathematics and science.  
 2500        (g) Establish partnerships with state universities,  
 2501 community colleges, and school districts.  
 2502        (h) Collaborate with the Florida Center for Reading  
 2503 Research in order to provide research-based practices that  
 2504 integrate the teaching of reading within mathematics and  
 2505 sciences courses.  
 2506        (2) The department shall monitor the center through the  
 2507 Division of K-12 Public Schools.  
 2508        Section 62. Sections 331.314, 331.367, 331.368, 331.401,  
 2509 331.403, 331.405, 331.407, 331.409, 331.411, 331.415, 331.417,  
 2510 and 331.419, Florida Statutes, are repealed.  
 2511        Section 63. The Florida Space Authority, the Florida Space  
 2512 Research Institute, and the Florida Aerospace Finance  
 2513 Corporation are dissolved effective September 1, 2006. Space  
 2514 Florida, as created by this act, is the successor organization  
 2515 to, and as such shall assume the records, property, obligations,  
 2516 and unexpended balances of appropriations, allocations, or other  
 2517 funds of, the Florida Space Authority, the Florida Space  
 2518 Research Institute, and the Florida Aerospace Finance  
 2519 Corporation.

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2520        Section 64. The Governor, the President of the Senate, and  
2521 the Speaker of the House of Representatives shall appoint the  
2522 board of directors of Space Florida no later than July 1, 2006.  
2523 The board of directors of Space Florida shall hold its first  
2524 meeting no later than August 1, 2006. The board of directors of  
2525 Space Florida shall appoint a president no later than September  
2526 1, 2006. The Executive Office of the Governor shall provide  
2527 staffing and transitional support to Space Florida until  
2528 December 31, 2006.

2529        Section 65. Subsection (12) is added to section 288.1224,  
2530 Florida Statutes, to read:

2531        288.1224 Powers and duties.--The commission:

2532        (12) Shall advise and cooperate with Space Florida, when  
2533 appropriate and beneficial.

2534        Section 66. Subsection (7) is added to section 288.9015,  
2535 Florida Statutes, to read:

2536        288.9015 Enterprise Florida, Inc.; purpose; duties.--

2537        (7) Enterprise Florida, Inc., shall advise and cooperate  
2538 with Space Florida, when appropriate and beneficial, related to  
2539 issues of aerospace business retention, expansion, attraction,  
2540 and creation, and other related activities.

2541        Section 67. Subsection (12) is added to section 445.004,  
2542 Florida Statutes, to read:

2543        445.004 Workforce Florida, Inc.; creation; purpose;  
2544 membership; duties and powers.--

2545        (12) Workforce Florida, Inc., shall advise and cooperate  
2546 with Space Florida, when appropriate and beneficial, for the  
2547 furtherance of aerospace workforce development.

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2548           Section 68. Subsection (17) is added to section 1001.10,  
2549 Florida Statutes, read:

2550           1001.10 Commissioner of Education; general powers and  
2551 duties.--The Commissioner of Education is the chief educational  
2552 officer of the state, and is responsible for giving full  
2553 assistance to the State Board of Education in enforcing  
2554 compliance with the mission and goals of the seamless K-20  
2555 education system. To facilitate innovative practices and to  
2556 allow local selection of educational methods, the State Board of  
2557 Education may authorize the commissioner to waive, upon the  
2558 request of a district school board, State Board of Education  
2559 rules that relate to district school instruction and school  
2560 operations, except those rules pertaining to civil rights, and  
2561 student health, safety, and welfare. The Commissioner of  
2562 Education is not authorized to grant waivers for any provisions  
2563 in rule pertaining to the allocation and appropriation of state  
2564 and local funds for public education; the election,  
2565 compensation, and organization of school board members and  
2566 superintendents; graduation and state accountability standards;  
2567 financial reporting requirements; reporting of out-of-field  
2568 teaching assignments under s. 1012.42; public meetings; public  
2569 records; or due process hearings governed by chapter 120. No  
2570 later than January 1 of each year, the commissioner shall report  
2571 to the Legislature and the State Board of Education all approved  
2572 waiver requests in the preceding year. Additionally, the  
2573 commissioner has the following general powers and duties:

2574           (17) To advise and cooperate with Space Florida, when  
2575 appropriate and beneficial.

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2576 The commissioner's office shall operate all statewide functions  
2577 necessary to support the State Board of Education and the K-20  
2578 education system, including strategic planning and budget  
2579 development, general administration, and assessment and  
2580 accountability.

2581       Section 69. This act shall take effect upon becoming a  
2582 law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **1489 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Fiscal Council  
Representative Waters offered the following:

**Amendment (with title amendment)**

between lines 2580 and 2581 insert:

Section 69. (1) The following appropriations are made to  
the Office of Tourism, Trade, and Economic Development:

(a) From nonrecurring General Revenue for fiscal year 2006-  
2007:

1. The sum of \$35 million is appropriated to be used for  
infrastructure needs related to the development of the National  
Aeronautics and Space Administration's Crew Exploration Vehicle.

2. The sum of \$8 million is appropriated for implementation  
of recommendations made by the Governor's Commission on the  
Future of Space and Aeronautics in Florida, including, but not  
limited to, the development of a commercial spaceport and space  
related operational systems.

(b) From recurring General Revenue for fiscal year 2006-  
2007 and annually thereafter:

1. The sum of \$3 million is appropriated for operational  
needs of Space Florida.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

22        2. The sum of \$4 million is appropriated for implementation  
23        of innovative education programs and financing assistance for  
24        aerospace business development projects.

25  
26        ===== T I T L E   A M E N D M E N T =====

27        Remove line 78 and insert:  
28        providing for appropriations; providing an effective date.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **1489 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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Council/Committee hearing bill: Fiscal Council

Representative Waters offered the following:

**Amendment (with title amendment)**

Remove lines 2320 through 2475

===== T I T L E   A M E N D M E N T =====

Remove line(s) 45 through 51 and insert:

and equipment; creating s. 1004.86, F.S.; requiring the

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